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A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
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Monday, December 14, 2009

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

General Administrative Regulations; Subpart X—Interpretations of Statutory and Regulatory Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; technical correction.

SUMMARY: This document contains a correction to the e-mail address and fax number that is currently displayed in the CFR.

DATES: *Effective Date:* December 14, 2009.

FOR FURTHER INFORMATION CONTACT: Heyward Baker, Director, Risk Management Services Division, Federal Crop Insurance Corporation, telephone (202) 720–4232.

SUPPLEMENTARY INFORMATION:

Background

This correction is being published to correct the facsimile and electronic mail address, and add an overnight delivery address option for requestor submissions for final agency determinations as discussed in Subpart X.

List of Subjects in 7 CFR Part 400

Administrative practice and procedure, crop insurance, reporting and recordkeeping requirements.

Need for Correction

As currently published, 7 CFR 400.767 contains outdated contact information. Accordingly, 7 CFR part 400 is corrected by making the following amendments:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

■ 1. The authority citation for 7 CFR part 400 continues to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(p).

Subpart X—Interpretations of Statutory and Regulatory Provisions

■ 2. Amend § 400.767 as follows:
■ a. Revise paragraphs (a)(1)(ii) and (a)(1)(iii).
■ b. Add a new section (a)(1)(iv) to read as follows:

§ 400.767 Requester obligations.

(a) * * *
(1) * * *
(ii) By facsimile at (202) 690–9911;
(iii) By electronic mail at *RMA.CCO@rma.usda.gov;* or
(iv) By overnight delivery to the Associate Administrator, Risk Management Agency, United States Department of Agriculture, Stop 0801, Room 6092–S, 1400 Independence Avenue, SW., Washington DC 20250.
* * * * *

Signed in Washington, DC, on December 7, 2009.

William J. Murphy,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E9–29676 Filed 12–11–09; 8:45 am]
BILLING CODE 3410–08–P

DEPARTMENT OF ENERGY

10 CFR Parts 207, 218, 430, 490, 501, 601, 820, 824, 851, 1013, 1017, and 1050

RIN 1990–AA32

Inflation Adjustment of Civil Monetary Penalties

AGENCY: Office of the General Counsel, U.S. Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (''DOE'') today publishes this final rule to adjust DOE's civil monetary penalties (''CMPs'') for inflation as mandated by the Debt Collection Improvement Act of 1996. This rule adjusts CMPs within the jurisdiction of DOE to the maximum extent allowed by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996.

DATES: This rule is effective January 13, 2010.

FOR FURTHER INFORMATION CONTACT: Preeti Chaudhari, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8078.

SUPPLEMENTARY INFORMATION:

I. Background

In order to preserve the deterrent effect of civil penalties and foster compliance with the law, the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134) (''the Act''), requires Federal agencies to regularly adjust each CMP provided by law within the jurisdiction of the agency. Also, the Act in part requires each agency to make further adjustments at least once every four years.

The Act provides that any increase in a CMP due to the calculated inflation adjustments shall apply only to violations that occur after the date the increase takes effect and states that the initial inflation adjustment may not exceed 10 percent of the existing penalty.

II. Method of Calculation

Under the Act, the inflation adjustment for each applicable CMP is determined by increasing the maximum civil penalty amount per violation by the cost-of-living adjustment. The ''cost-of-living'' adjustment is defined as the amount by which the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment exceeds the CPI for the month of June of the year in which the amount of such civil penalty was last set or adjusted pursuant to law. Any calculated increase under this adjustment is rounded to the nearest—

(1) Multiple of $10 in the case of penalties less than or equal to $100;

(2) Multiple of $100 in the case of penalties greater than $100 but less than or equal to $1,000;

(3) Multiple of $1000 in the case of penalties greater than $1000 but less than or equal to $10,000;

(4) Multiple of $5000 in the case of penalties greater than $10,000 but less than or equal to $100,000;

(5) Multiple of $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000; and

(6) Multiple of $25,000 in the case of penalties greater than $200,000.

28 U.S.C. 2461 note, sec. 5.

III. Summary of Final Rule

The following list summarizes the existing DOE regulations containing civil monetary penalties, and the penalties before and after adjustment.

DOE regulation containing civil monetary penalty	Before adjustment	After adjustment
10 CFR 207.7	$2,750	$4,000.
10 CFR 218.42	$5,500	$8,000.
10 CFR 430.61	$110	$200.
10 CFR 490.604	$5,500	$8,000.
10 CFR 501.181(c)	—$27,500	—$40,000.
	—3.3/mcf	—3.3/mcf.
	—11/bbl	—20/bbl.
10 CFR 601.400 and App A	—minimum $11,000	—minimum $15,000.
	—maximum $110,000	—maximum $150,000.
10 CFR 820.81 [1]	$110,000	$150,000.
10 CFR 824.1 and App A	$100,000	$110,000.
10 CFR 824.4 and App A	$100,000	$110,000.
10 CFR 851.5 and App B [2]	$70,000	$75,000.
10 CFR 1013.3	$5,500	$8,000.
10 CFR 1017.29 (formerly 10 CFR 1017.18)	$110,000	$150,000.
10 CFR 1050.303	$5,500	$8,000.

[1] The civil penalties under this section and 10 CFR 851.5 encompass the civil penalty authorized by 50 U.S.C. 2731 (formerly 42 U.S.C. 7274d). Title 50 U.S.C. 2731 establishes a maximum civil penalty of $5,000 per day for failure of any DOE contractor to provide specified training to individuals it employs who are engaged in hazardous substance response or emergency response at DOE nuclear weapons facilities or for failure to certify to DOE that such employees are adequately trained pursuant to orders issued by DOE relating to employee safety training. In corresponding guidance, DOE is today adjusting the civil penalty to a maximum of $5,500 for each day a violation occurs. The adjusted civil penalty is well under the maximum civil penalty provided under 10 CFR 820.81 and 10 CFR 851.5. This footnote shall not be construed as limiting DOE's discretion to impose civil penalties for violations of training requirements contained in DOE's Nuclear Safety Requirements or 10 CFR Part 851, including training requirements relating to hazardous substance response or emergency response at DOE's nuclear weapons facilities.

[2] See footnote 1.

IV. Final Rulemaking

In accordance with 5 U.S.C. 553(b), the Administrative Procedure Act, DOE generally publishes a rule in a proposed form and solicits public comment on it before issuing the rule in final. However, 5 U.S.C. 553(b)(B) provides an exception to the public comment requirement if the agency finds good cause to omit advance notice and public participation. Good cause is shown when public comment is ''impracticable, unnecessary, or contrary to the public interest.''

DOE finds that providing an opportunity for public comment prior to publication of this rule is not necessary because DOE is carrying out a ministerial, non-discretionary duty specified in an Act of Congress. This rule incorporates requirements specifically set forth in 28 U.S.C. 2461 note requiring DOE to issue a regulation implementing inflation adjustments for all its civil penalty provisions. The formula for the amount of the penalty adjustment is prescribed by Congress. Prior notice and opportunity to comment are therefore unnecessary in this case because these changes are not subject to the exercise of discretion by DOE. These technical changes, required by law, do not substantively alter the existing regulatory framework nor in any way affect the terms under which DOE assesses civil penalties.

V. Regulatory Review

A. Executive Order 12866

Today's rule has been determined not to be a significant regulatory action under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget.

B. National Environmental Policy Act

DOE has determined that this final rule is covered under the Categorical Exclusion found in DOE's National Environmental Policy Act regulations at paragraph A.5 of Appendix A to Subpart D, 10 CFR part 1021, which applies to rulemaking that amends an existing rule or regulation which does not change the environmental effect of the rule or regulation being amended. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment. As discussed above, DOE has determined that prior notice and opportunity for public comment is unnecessary and contrary to the public interest. In accordance with 5 U.S.C. 604(a), no regulatory flexibility analysis has been prepared for today's rule.

D. Paperwork Reduction Act

This final rule imposes no new information collection requirements subject to the Paperwork Reduction Act.

E. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires Federal agencies to examine closely the impacts of regulatory actions on State, local, and tribal governments. Section 201 excepts agencies from assessing effects on State, local or tribal governments or the private sector of rules that incorporate requirements specifically set forth in law. Because this rule incorporates requirements specifically set forth in 28 U.S.C. 2461 note, DOE is not required to assess its regulatory effects under Section 201. Unfunded Mandates Reform Act sections 202 and 205 do not apply to today's action because they apply only to rules for which a general notice of

proposed rulemaking is published. Nevertheless, DOE has determined that today's regulatory action does not impose a Federal mandate on State, local, or tribal governments or on the public sector.

F. Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

G. Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined this rule and has determined that it would not preempt State law and would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

H. Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this rule meets the relevant standards of Executive Order 12988.

I. Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

J. Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001) requires Federal agencies to prepare and submit to the OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's regulatory action would not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

K. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of today's final rule prior to the effective date set forth at the outset of this notice. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 801(2).

List of Subjects

10 CFR Part 207

Administrative practice and procedure, Energy, Penalties.

10 CFR Part 218

Administrative practice and procedure, Penalties, Petroleum allocation.

10 CFR Part 430

Administrative practice and procedure, Energy conservation.

10 CFR Part 490

Administrative practice and procedure, Energy conservation, Penalties.

10 CFR Part 501

Administrative practice and procedure, Electric power plants, Energy conservation, Natural gas, Petroleum.

10 CFR Part 601

Government contracts, Grant programs, Loan programs, Penalties.

10 CFR Part 820

Administrative practice and procedure, Government contracts, Penalties, Radiation protection.

10 CFR Part 824

Government contracts, Nuclear materials, Penalties, Security measures.

10 CFR Part 851

Civil penalty, Hazardous substances, Occupational safety and health, Safety, Reporting and recordkeeping requirements.

10 CFR Part 1013

Administrative practice and procedure, Claims, Fraud, Penalties.

10 CFR Part 1017

Administrative practice and procedure, Government contracts, National Defense, Nuclear Energy, Penalties, Security measures.

10 CFR Part 1050

Decorations, medals, awards, Foreign relations, Government employees, Government property, Reporting and recordkeeping requirements.

Issued in Washington, DC, on December 8, 2009.

Scott Blake Harris,

General Counsel.

■ For the reasons set forth in the preamble, DOE amends chapters II, III, and X of Chapter 10 of the Code of Federal Regulations as set forth below.

PART 207—COLLECTION OF INFORMATION

■ 1. The authority citation for part 207 continues to read as follows:

Authority: 15 U.S.C. 787 *et seq.;* 15 U.S.C. 791 *et seq.;* E.O. 11790, 39 FR 23185; 28 U.S.C. 2461 note.

■ 2. Section 207.7 is amended by revising the first sentence of paragraph (c)(1) to read as follows:

§ 207.7 Sanctions.

* * * * *

(c) *Civil Penalties.* (1) Any person who violates any provision of this subpart or any order issued pursuant thereto shall be subject to a civil penalty of not more than $4,000 for each violation. * * *

* * * * *

PART 218—STANDBY MANDATORY INTERNATIONAL OIL ALLOCATION

■ 3. The authority citation for part 218 continues to read as follows:

Authority: 15 U.S.C. 751 *et seq.;* 15 U.S.C. 787 *et seq.;* 42 U.S.C. 6201 *et seq.;* 42 U.S.C. 7101 *et seq.;* E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267; 28 U.S.C. 2461 note.

■ 4. Section 218.42 is amended by revising paragraph (b)(1) to read as follows:

§ 218.42 Sanctions.

* * * * *

(b) *Penalties.* (1) Any person who violates any provision of part 218 of this chapter or any order issued pursuant thereto shall be subject to a civil penalty of not more than $8,000 for each violation.

* * * * *

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 5. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 6. Section 430.61 is amended by revising the first sentence of paragraph (b) to read as follows:

§ 430.61 Prohibited acts.

* * * * *

(b) In accordance with section 333 of the Act, any person who knowingly violates any provision of paragraph (a) of this section may be subject to assessment of a civil penalty of no more than $200 for each violation. * * *

PART 490—ALTERNATIVE FUEL TRANSPORTATION PROGRAM

■ 7. The authority citation for part 490 continues to read as follows:

Authority: 42 U.S.C. 7191 *et seq.;* 42 U.S.C. 13201, 13211, 13220, 13251 *et seq.*

■ 8. Section 490.604 is amended by revising paragraph (a) to read as follows:

§ 490.604 Penalties and fines.

(a) *Civil Penalties.* Whoever violates § 490.603 of this part shall be subject to a civil penalty of not more than $8,000 for each violation.

* * * * *

PART 501—ADMINISTRATIVE PROCEDURES AND SANCTIONS

■ 9. The authority citation for part 501 continues to read as follows:

Authority: 42 U.S.C. 7101 *et seq.;* 42 U.S.C. 8301 *et seq.;* 42 U.S.C. 8701 *et seq.;* E.O. 12009, 42 FR 46267; 28 U.S.C. 2461 note.

■ 10. Section 501.181 is amended by revising paragraph (c)(1) to read as follows:

§ 501.181 Sanctions.

* * * * *

(c) *Civil Penalties.* (1) Any person who violates any provisions of the Act (other than section 402) or any rule or order thereunder will be subject to the following civil penalty, which may not exceed $40,000 for each violation: Any person who operates a powerplant or major fuel burning installation under an exemption, during any 12-calendar-month period, in excess of that authorized in such exemption will be assessed a civil penalty of up to $3.30 for each MCF of natural gas or up to $20 for each barrel of oil used in excess of that authorized in the exemption.

* * * * *

PART 601—NEW RESTRICTIONS ON LOBBYING

■ 11. The authority citation for part 601 continues to read as follows:

Authority: 31 U.S.C. 1352; 42 U.S.C. 7254 and 7256; 31 U.S.C. 6301–6308; 28 U.S.C. 2461 note.

■ 12. Section 601.400 is amended by revising paragraphs (a), (b) and (e) to read as follows:

§ 601.400 Penalties.

(a) Any person who makes an expenditure prohibited herein shall be subject to a civil penalty of not less than $15,000 and not more than $150,000 for each such expenditure.

(b) Any person who fails to file or amend the disclosure form (see appendix B) to be filed or amended if required herein, shall be subject to a civil penalty of not less than $15,000 and not more than $150,000 for each such failure.

* * * * *

(e) First offenders under paragraphs (a) or (b) of this section shall be subject to a civil penalty of $15,000, absent aggravating circumstances. Second and subsequent offenses by persons shall be subject to an appropriate civil penalty between $15,000 and $150,000, as determined by the agency head or his or her designee.

* * * * *

■ 13. Appendix A to part 601, is amended by:

■ a. Revising the last sentence, second undesignated paragraph, in paragraph (3) of the section entitled, ''Certification for Contracts, Grants, Loans, and Cooperative Agreements''; and

■ b. Revising the last sentence, second undesignated paragraph, in the section entitled, ''Statement for Loan Guarantees and Loan Insurance.''

Appendix A to Part 601—Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

* * * * *

(3) * * *

* * * Any person who fails to file the required certification shall be subject to a civil penalty of not less than $15,000 and not more than $150,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

* * * * *

* * * Any person who fails to file the required statement shall be subject to a civil penalty of not less than $15,000 and not more than $150,000 for each such failure.

PART 820—PROCEDURAL RULES FOR DOE NUCLEAR ACTIVITIES

■ 14. The authority citation for part 820 continues to read as follows:

Authority: 42 U.S.C. 2201; 2282(a); 7191; 28 U.S.C. 2461 note; 50 U.S.C. 2410.

■ 15. Section 820.81 is amended by revising the first sentence to read as follows:

§ 820.81 Amount of penalty.

Any person subject to a penalty under 42 U.S.C. 2282a shall be subject to a civil penalty in an amount not to exceed $150,000 for each such violation. * * *

PART 824—PROCEDURAL RULES FOR THE ASSESSMENT OF CIVIL PENALTIES FOR CLASSIFIED INFORMATION SECURITY VIOLATIONS

■ 16. The authority citation for part 824 continues to read as follows:

Authority: 42 U.S.C. 2201, 2282b, 7101 *et seq.,* 50 U.S.C. 2401 *et seq.*

■ 17. Section 824.1 is amended by revising the second sentence to read as follows:

§ 824.1 Purpose and scope.

* * * Subsection a. provides that any person who has entered into a contract or agreement with the Department of Energy, or a subcontract or subagreement thereto, and who violates (or whose employee violates) any applicable rule, regulation or order under the Act relating to the security or safeguarding of Restricted Data or other classified information, shall be subject to a civil penalty not to exceed $110,000 for each violation. * * *

■ 18. Section 824.4 is amended by revising paragraph (c) to read as follows:

§ 824.4 Civil penalties.

* * * * *

(c) The Director may propose imposition of a civil penalty for violation of a requirement of a regulation or rule under paragraph (a) of this section or a compliance order issued under paragraph (b) of this section, not to exceed $110,000 for each violation.

* * * * *

■ 19. Appendix A to part 824 is amended by:

■ a. Revising the fourth and sixth sentences of paragraph 2.e., ''Civil Penalty,'' in section VIII ''Enforcement Actions''; and

■ b. Revising the last sentence of paragraph 3.d., ''Adjustment Factors,'' in section VIII titled ''Enforcement Actions''.

The revisions read as follows:

Appendix A to Part 824—General Statement of Enforcement Policy

* * * * *

VIII. Enforcement Actions

* * * * *

2. Civil Penalty

* * * * *

e. * * * In no instance will a civil penalty for any one violation exceed the $110,000 statutory limit per violation. * * * Thus, the per violation cap will not shield a DOE contractor that is or should have been aware of an ongoing violation and has not reported it to DOE and taken corrective action despite an opportunity to do so from liability significantly exceeding $110,000. * * *

* * * * *

3. Adjustment Factors

* * * * *

d. * * * Based on the degree of such factors, DOE may escalate the amount of civil penalties up to the statutory maximum of $110,000 per violation per day for continuing violations.

* * * * *

PART 851—WORKER SAFETY AND HEALTH PROGRAM

■ 20. The authority citation for part 851 continues to read as follows:

Authority: 42 U.S.C. 2201(i)(3), (p); 42 U.S.C. 2282c; 42 U.S.C. 5801 *et seq.;* 42 U.S.C. 7101 *et seq.;* 50 U.S.C. 2401 *et seq.*

■ 21. Section 851.5 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 851.5 Enforcement.

(a) A contractor that is indemnified under section 170d. of the AEA (or any subcontractor or supplier thereto) and that violates (or whose employee violates) any requirement of this part shall be subject to a civil penalty of up to $75,000 for each such violation.

* * *

* * * * *

■ 22. Appendix B to part 851 is amended by:

■ a. Revising the last sentences of paragraphs (b)(1) and (b)(2) in section VI;

■ b. Revising paragraph 1.(e)(1) in section IX ; and

■ c. Revising the fourth sentence in paragraph 2.(f) in section IX.

The revisions read as follows:

Appendix B to Part 851—General Statement of Enforcement Policy

* * * * *

VI. Severity of Violations

(b) * * *

(1) * * * A Severity Level I violation would be subject to a base civil penalty of up to 100% of the maximum base civil penalty of $75,000.

(2) * * * A Severity Level II violation would be subject to a base civil penalty up to 50% of the maximum base civil penalty ($37,500).

* * * * *

IX. Enforcement Actions

* * * * *

1. Notice of Violation

* * * * *

(e) * * *

(1) DOE may assess civil penalties of up to $75,000 per violation per day on contractors (and their subcontractors and suppliers) that are indemnified by the Price-Anderson Act, 42 U.S.C. 2210(d). *See* 10 CFR 851.5(a).

* * * * *

2. Civil Penalty

* * * * *

(f) * * * In no instance will a civil penalty for any one violation exceed the statutory limit of $75,000 per day. * * *

* * * * *

PART 1013—PROGRAM FRAUD CIVIL REMEDIES AND PROCEDURES

■ 23. The authority citation for part 1013 continues to reads as follows:

Authority: 31 U.S.C. 3801–3812; 28 U.S.C. 2461 note.

■ 24. Section 1013.3 is amended by revising paragraphs (a)(1)(iv) and (b)(1)(ii) to read as follows:

§ 1013.3 Basis for civil penalties and assessments.

(a) * * *

(1) * * *

(iv) Is for payment for the provision of property or services which the person has not provided as claimed, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $8,000 for each such claim.

* * * * *

(b) * * *

(1) * * *

(ii) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $8,000 for each such statement.

* * * * *

PART 1017—IDENTIFICATION AND PROTECTION OF UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION

■ 25. The authority citation for part 1017 continues to read as follows:

Authority: 42 U.S.C. 7101 *et seq.;* 50 U.S.C. 2401 *et seq.;* 42 U.S.C. 2168; 28 U.S.C. 2461.

■ 26. Section 1017.29 is amended by revising paragraph (c) to read as follows:

§ 1017.29 Civil penalty.

* * * * *

(c) *Amount of penalty.* The Director may propose imposition of a civil penalty for violation of a requirement of a regulation under paragraph (a) of this section or a compliance order issued under paragraph (b) of this section, not to exceed $150,000 for each violation.

* * * * *

PART 1050—FOREIGN GIFTS AND DECORATIONS

■ 27. The authority citation for part 1050 continues to read as follows:

Authority: The Constitution of the United States, Article I, Section 9; 5 U.S.C. 7342; 22 U.S.C. 2694; 42 U.S.C. 7254 and 7262; 28 U.S.C. 2461 note.

■ 28. Section 1050.303 is amended by revising the last sentence in paragraph (d) to read as follows:

§ 1050.303 Enforcement.

* * * * *

(d) * * * The court in which such action is brought may assess a civil penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus $8,000.

[FR Doc. E9–29667 Filed 12–11–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0083; Directorate Identifier 2006–NM–266–AD; Amendment 39–16137; AD 2009–26–02]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ, –135ER, –135KE, –135KL, –135LR, –145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

It has been found the occurrence of engine anti-ice system valve failure, where the valve spring seat has broken and obstructed the anti-ice system venturi tube. * * * Therefore, should the aircraft encounter icing conditions, ice may accrete in the engine inlet lip and be ingested through the air inlet, resulting in possible engine damage and flame-out.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective January 19, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of January 19, 2010.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1405; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a second supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That second supplemental NPRM was published in the **Federal Register** on September 25, 2009 (74 FR 48877). That second supplemental NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

It has been found the occurrence of engine anti-ice system valve failure, where the valve spring seat has broken and obstructed the anti-ice system venturi tube. Aircraft dispatch with that failure may be allowed by the operator Minimum Equipment List (MEL), [if] the engine anti-ice system valve [is] locked in the OPEN position. However, there is no readily available means to make sure the anti-ice system tubing is free of debris, allowing unrestricted hot airflow to the piccolo tube on the engine inlet lip. Therefore, should the aircraft encounter icing conditions, ice may accrete in the engine inlet lip and be ingested through the air inlet, resulting in possible engine damage and flame-out.

The required actions include an inspection to determine the part number of the engine anti-icing system valves; repetitive inspections of certain engine anti-icing system valves and tubes to detect damage, and replacement of the valves if damage is found; and eventual replacement of certain anti-icing system valves. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the second supplemental NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow our FAA policies. Any such differences are highlighted in a Note within the AD.

Costs of Compliance

We estimate that this AD will affect 697 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $111,520, or $160 per product.

We also estimate that the replacement specified in this AD will affect up to 306 parts. We estimate that it will take about 5 work-hours per part to comply with the replacement requirements of this AD. (Some airplanes have no affected parts and other airplanes have either one or two affected parts.) The cost of each required part is $27,507. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the replacement specified in the AD on U.S. operators to be $8,539,542, or $27,907 per part.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2009–26–02 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–16137. Docket No. FAA–2007–0083; Directorate Identifier 2006–NM–266–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective January 19, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to EMBRAER Model EMB–135BJ, –135ER, –135KE, –135KL, –135LR, –145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes, certificated in any category, except airplanes having serial numbers 14500921, 14500928, 14500932, 14500949, 14500958, 14500971, 14500973 and up, which will have in-factory modification incorporated.

Subject

(d) Air Transport Association of America Code 30: Ice and Rain Protection.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

It has been found the occurrence of engine anti-ice system valve failure, where the valve spring seat has broken and obstructed the anti-ice system venturi tube. Aircraft dispatch with that failure may be allowed by the operator Minimum Equipment List (MEL), [if] the engine anti-ice system valve [is] locked in the OPEN position. However, there is no readily available means to make sure the anti-ice system tubing is free of debris, allowing unrestricted hot airflow to the piccolo tube on the engine inlet lip. Therefore, should the aircraft encounter icing conditions, ice may accrete in the engine inlet lip and be ingested through the air inlet, resulting in possible engine damage and flame-out.

The required actions include an inspection to determine the part number of the engine anti-icing system valves; repetitive inspections of certain engine anti-icing system valves and tubes to detect damage, and replacement of the valves if damage is found; and eventual replacement of certain anti-icing system valves.

Actions and Compliance

(f) Unless already done, do the following actions.

(1) PART I—Within 500 flight hours or 3 months after the effective date of this AD, whichever occurs first, carry out a general visual inspection of both LH (left-hand) and RH (right-hand) engine anti-ice system valves to determine their P/N (part number).

(i) For engine anti-ice system valves with P/N C146009–2: No further action is required by paragraph (f)(1) of this AD.

(ii) For engine anti-ice system valves with P/N C146009–3: Before further flight, remove the valve and carry out a detailed inspection regarding its integrity; and carry out a special detailed inspection for an obstruction in the corresponding engine anti-ice system tubes; according to the detailed instructions and procedures described in Embraer Service Bulletin 145–30–0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG–30–0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable.

(A) If the valve is damaged or the tube is obstructed, before further flight: Replace the valve with a serviceable or new valve bearing P/N C146009–2, C146009–3, or C146009–4; or remove all obstructions; as applicable; in accordance with the Accomplishment Instructions of Embraer Service Bulletin 145–30–0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG–30–0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable.

(B) If the valve is not damaged or the tube is not obstructed, re-install the valve or install a serviceable or new valve bearing P/N C146009–2, C146009–3, or C146009–4; or re-install the tube; in accordance with the Accomplishment Instructions of Embraer Service Bulletin 145–30–0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG–30–0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable.

(iii) For engine anti-ice system valves with P/N C146009–4: No further action is required by paragraph (f)(1) of this AD. In this case, paragraphs (f)(2), (f)(3), (f)(4), (f)(7), and (f)(8) of this AD are not applicable. However, paragraphs (f)(5) and (f)(6) of this AD must be accomplished.

(2) PART II—Within 1,500 flight hours or 9 months after the effective date of this AD, whichever occurs first, and thereafter at intervals that do not exceed 1,000 flight hours or 6 months, whichever occurs first, carry out a detailed inspection for damage of both LH and RH engine anti-ice system valves bearing P/N C146009–2 or C146009–3; and a special detailed inspection for obstruction of the corresponding engine anti-ice system tubes; according to the detailed instructions and procedures described in Embraer Service Bulletin 145–30–0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG–30–0016, dated June 28, 2006, or

Revision 01, dated February 5, 2007; as applicable; and accomplish paragraphs (f)(2)(i) and (f)(2)(ii) of this AD, as applicable.

(i) If the valve is damaged or the tube is obstructed, before further flight: Replace the valve with a serviceable or new valve bearing P/N C146009–2, C146009–3, or C146009–4; or remove all obstructions; as applicable; in accordance with the Accomplishment Instructions of Embraer Service Bulletin 145–30–0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG–30–0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable.

(ii) If the valve is not damaged, or the tube is not obstructed, before further flight: Re-install the valve or install a serviceable or new valve bearing P/N C146009–2 C146009–3, or C146009–4; or re-install the tube; as applicable; in accordance with the Accomplishment Instructions of Embraer Service Bulletin 145–30–0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG–30–0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable.

(3) PART III—Any engine anti-ice system valve with P/N C146009–2 or C146009–3 that will be installed as a replacement, as provided for in paragraphs (f)(1) and (f)(2) of this AD, must undergo a detailed inspection for its integrity before installation, according to the detailed instructions and procedures described in Embraer Service Bulletin 145–30–0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG–30–0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable; and additionally adhere to paragraphs (f)(3)(i) and (f)(3)(ii) of this AD, as applicable.

(i) If the valve is damaged, replace it with a serviceable or new valve bearing P/N C146009–2, C146009–3, or C146009–4; in accordance with the Accomplishment Instructions of Embraer Service Bulletin 145–30–0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG–30–0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable.

(ii) If the valve is not damaged, installation is permitted.

(4) PART IV—Any engine anti-ice system tubes that will be installed on the airplane as a replacement, as provided for in paragraphs (f)(1) and (f)(2) of this AD, must undergo a special detailed inspection before installation, and all obstructions removed, according to the detailed instructions and procedures described in Embraer Service Bulletin 145–30–0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG–30–0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable.

(5) PART V—If any engine anti-ice system valve with P/N C146009–4 has been found during the inspection required by paragraph (f)(1) of this AD, do paragraphs (f)(5)(i) or (f)(5)(ii) of this AD, as applicable, within 500 flight hours or 6 months after the effective date of this AD, whichever occurs first.

(i) If the valve was installed according to the detailed instructions and procedures described in Embraer Service Bulletin 145–30–0044, Revision 01, dated June 26, 2006, Revision 02, dated September 25, 2006, Revision 03, dated December 12, 2006, or Revision 04, dated May 14, 2008; or Embraer Service Bulletin 145LEG–30–0018, Revision 02, dated December 12, 2006, or Revision 03, dated May 14, 2008; as applicable: No further action is required by this AD.

(ii) If the valve was installed according to detailed instructions and procedures other than those specified in paragraph (f)(5)(i) of this AD: Carry out a special detailed inspection in the corresponding engine anti-ice system tubes, and repair all damage and remove all obstructions; according to the detailed instructions and procedures described in Embraer Service Bulletin 145–30–0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG–30–0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable. After doing the actions specified in paragraph (f)(5)(ii) of this AD, no further action is required by this AD.

(6) PART VI—Before aircraft dispatch with one or two engine anti-ice system valves inoperative (Master Minimum Equipment List (MMEL) 30–21–01), carry out a detailed inspection for damage of the affected engine anti-ice system valves; and a special detailed inspection for obstruction of the corresponding engine anti-ice system tubes; and replace all damaged valves and remove all obstructions before further flight. Do all actions according to the detailed instructions and procedures described in Embraer Service Bulletin 145–30–0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG–30–0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable; by accomplishing paragraph (f)(2) of this AD, unless the condition specified in paragraph (f)(6)(i) or (f)(6)(ii) of this AD has been met.

(i) Valves with P/N C146009–4 have been previously installed according to the detailed instructions and procedures described in Embraer Service Bulletin 145–30–0044, dated October 31, 2005; Embraer Service Bulletin 145LEG–30–0018, dated June 26, 2006; or Embraer Service Bulletin 145LEG–30–0018, Revision 01, dated September 25, 2006; as applicable; and additionally, paragraph (f)(5)(ii) of this AD has been accomplished.

(ii) Valves with P/N C146009–4 have been previously installed according to the detailed instructions and procedures described in Embraer Service Bulletin 145–30–0044, Revision 01, dated June 26, 2006, Revision 02, dated September 25, 2006, Revision 03, dated December 12, 2006, or Revision 04, dated May 14, 2008; or Embraer Service Bulletin 145LEG–30–0018, Revision 02, dated December 12, 2006, or Revision 03, dated May 14, 2008; as applicable.

(7) PART VII—Within 1,000 flight hours or 10 months after the effective date of this AD, whichever occurs first, install engine anti-ice system valves bearing P/N C146009–4 in the LH and RH engine positions, replacing P/N C146009–3, according to the detailed instructions and procedures described in Embraer Service Bulletin 145–30–0044, Revision 01, dated June 26, 2006, Revision 02, dated September 25, 2006, Revision 03, dated December 12, 2006, or Revision 04, dated May 14, 2008; or Embraer Service Bulletin 145LEG–30–0018, Revision 02, dated December 12, 2006, or Revision 03, dated May 14, 2008; as applicable.

(8) PART VIII—Within 1,000 flight hours or 10 months after the effective date of this AD, whichever occurs first, install engine anti-ice system valves bearing P/N C146009–4 in the LH and RH engine positions, replacing P/N C146009–2, according to the detailed instructions and procedures described in Embraer Service Bulletin 145–30–0044, Revision 01, dated June 26, 2006; Revision 02, dated September 25, 2006, Revision 03, dated December 12, 2006, or Revision 04, dated May 14, 2008; or Embraer Service Bulletin 145LEG–30–0018, Revision 02, dated December 12, 2006, or Revision 03, dated May 14, 2008; as applicable.

(9) PART IX—The installation of engine anti-ice system valves bearing P/N C146009–4 according to the detailed instructions and procedures described in Embraer Service Bulletin 145–30–0044, Revision 01, dated June 26, 2006, Revision 02, dated September 25, 2006, Revision 03, dated December 12, 2006; or Revision 04, dated May 14, 2008; or Embraer Service Bulletin 145LEG–30–0018, Revision 02, dated December 12, 2006, or Revision 03, dated May 14, 2008; as applicable; constitutes terminating action for this AD.

Note 1: For the purposes of this AD, a general visual inspection is: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Note 2: For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

Note 3: For the purposes of this AD, a special detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. The examination is likely to make extensive use of specialized inspection techniques and/or equipment. Intricate cleaning and substantial access or disassembly procedure may be required.''

FAA AD Differences

Note 4: This AD differs from the MCAI and/or service information as follows (we have coordinated these differences with Agência Nacional de Aviação Civil (ANAC)):

(1) ''Part V'' of the MCAI specifies a compliance time of within ''1,500 flight hours or 9 months.'' However, paragraph (f)(5) of this AD requires compliance ''within 500 flight hours or 6 months'' for the corresponding action.

(2) ''Part VII'' of the MCAI specifies a compliance time of ''within 2,500 flight hours or 12 months.'' However, paragraph (f)(7) of this AD requires compliance ''within 1,000 flight hours or 10 months'' for the corresponding action.

(3) ''Part VIII'' of the MCAI specifies a compliance time of ''within 6,000 flight hours or 30 months.'' However, paragraph (f)(8) of this AD requires compliance ''within 1,000 flight hours or 10 months'' for the corresponding action.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, ANM–116, International Branch, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1405; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to Brazilian Airworthiness Directive 2006–09–03R1, effective January 4, 2007; and the service bulletins listed in Table 1 of this AD; for related information.

TABLE 1—RELATED SERVICE BULLETINS

Embraer Service Bulletin—	Revision—	Dated—
145–30–0044	01	June 26, 2006.
145–30–0044	02	September 25, 2006.
145–30–0044	03	December 12, 2006.
145–30–0044	04	May 14, 2008.
145–30–0049	Original	June 28, 2006.
145–30–0049	01	October 19, 2006.
145LEG–30–0016	Original	June 28, 2006.
145LEG–30–0016	01	February 5, 2007.
145LEG–30–0018	02	December 12, 2006.
145LEG–30–0018	03	May 14, 2008

Material Incorporated by Reference

(i) You must use the applicable service information contained in Table 2 of this AD to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—BRASIL; telephone: +55 12 3927–5852 or +55 12 3309–0732; fax: +55 12 3927–7546; e-mail: *distrib@embraer.com.br*; Internet: *http://www.flyembraer.com*.

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

TABLE 2—MATERIAL INCORPORATED BY REFERENCE

Embraer Service Bulletin—	Revision—	Dated—
145LEG–30–0016	Original	June 28, 2006.
145LEG–30–0016	01	February 5, 2007.
145LEG–30–0018	02	December 12, 2006.
145LEG–30–0018	03	May 14, 2008.
145–30–0044	01	June 26, 2006.
145–30–0044	02	September 25, 2006.
145–30–0044	03	December 12, 2006.
145–30–0044	04	May 14, 2008.
145–30–0049	Original	June 28, 2006.
145–30–0049	01	October 19, 2006.

Issued in Renton, Washington, on December 1, 2009.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–29576 Filed 12–11–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–1008; Directorate Identifier 2008–SW–62–AD; Amendment 39–16063; AD 2009–22–10]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France (ECF) Model AS332C, AS332L, AS332L1, AS332L2, SA330F, SA330G, and SA330J Helicopters

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the specified ECF helicopters. This AD results from a mandatory continuing airworthiness information (MCAI) AD issued by the European Aviation Safety Agency (EASA), the Technical Agent for the aviation authority of France. The MCAI AD states there have been two cases of failure of the screw that secures the main rotor blade (blade) deicing system distributor retaining clamp (clamp). Analysis revealed that these failures were the result of insufficient clearance of the screw and the clamp assembly causing the screw to bend and also by some screws having nonconforming material hardness. Also, some of the screw heads were missing a lock-wiring hole preventing the use of lock-wiring between the screw head and the nut.

These actions are intended to detect failure of the clamp attachment screw leading to damage to the main or tail rotor blades and risk to persons on the ground by impact from a departed screw or clamp.

DATES: This AD becomes effective on December 29, 2009.

The incorporation by reference of certain publications is approved by the Director of the Federal Register as of December 29, 2009.

We must receive comments by February 12, 2010.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting your comments electronically.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may get the service information identified in this AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, TX 75053–4005, telephone (800) 232–0323, fax (972) 641–3710, or at *http://www.eurocopter.com*.

Examining the Docket: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is stated in the **ADDRESSES** section of this AD. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: DOT/FAA Southwest Region, J.R. Holton, Jr., ASW–112, Aviation Safety Engineer, Rotorcraft Directorate, Safety Management Group, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–4964, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Discussion

EASA, which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2009–0003R1, dated January 13, 2009, to correct an unsafe condition for the specified Eurocopter model helicopters. That EASA AD superseded EASA AD 2009–003–E, dated January 6, 2009, which superseded EASA AD 2008–0162–E, dated August 26, 2008, which superseded Direction générale de l'aviation civile (DGAC) AD UF–2008–029, dated August 21, 2008.

EASA reports two cases of failure of the screw that secures the blade clamp. Analyses revealed that these failures of the screw were the result of assembly stress in the screw head and nonconforming screw hardness. Also, in some cases, the screw head was missing a lock-wiring hole making it impossible to install a safety-wire between the screw head and the nut. Failure of the clamp attachment screw can lead to damage to the main or tail rotor blades and is a risk for persons on the ground.

You may obtain further information by examining the DGAC and MCAI ADs and any related service information in the AD docket.

Related Service Information

Eurocopter has issued Emergency Alert Service Bulletin (ASB) No. 30.00.66 for the Model AS332C, C1, L, and L1; and No. 30.20 for the Model SA330J, F, and G, both Revision 1 and both dated August 21, 2008. The ASBs specify removing the retaining clamp from the distributor, checking the blade clamp and attachment screw for interference between the screw head and the clamp, checking for a crack in the shank of the screw, checking for a lock-wiring hole in the screw, and identifying the clamp with a ''V.'' The actions described in the EASA MCAI AD are intended to correct the same unsafe condition as that identified in the service information.

FAA's Evaluation and Unsafe Condition Determination

These helicopters have been approved by the aviation authority of France, and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, the Technical Agent for France, has notified us of the unsafe condition described in the EASA MCAI AD. We are issuing this AD because we evaluated all information provided by the EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs.

Differences Between This AD and the MCAI AD

We describe the action taken in the AD as an inspection rather than a check.

Costs of Compliance

We estimate that this AD will affect about 16 helicopters of U.S. registry. We also estimate that it will take about 3 work-hours per helicopter to inspect the blade clamp and attachment screw and replace the screw on each helicopter. The average labor rate is $80 per work-hour. Required parts will cost about $200 per helicopter. Based on these figures, we estimate the cost of this AD on U.S. operators will be $7,040, assuming the clamp and attachment screw are replaced on each helicopter.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. We find the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because failure of the clamp attachment screw can cause separation of the clamp and screw and damage to the main or tail rotor blades. Therefore, we have determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. However, we invite you to send us any written data, views, or arguments concerning this AD. Send your comments to an address listed under the **ADDRESSES** section of this AD. Include ''Docket No. FAA–2009–1008; Directorate Identifier 2008–SW–62–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Therefore, I certify this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared an economic evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2009–22–10 Eurocopter France: Amendment 39–16063. Docket No. FAA–2009–1008; Directorate Identifier 2008–SW–62–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective on December 29, 2009.

Other Affected ADs

(b) None.

Applicability

(c) This AD applies to Model AS332C, AS332L, AS332L1, AS332L2, SA330F, SA330G, and SA330J helicopters with a main rotor blade (blade) de-icing system distributor retaining clamp (clamp), part number (P/N) 225000–18454, or P/N D18454, installed, certificated in any category.

Reason

(d) The mandatory continuing airworthiness information (MCAI) states that there have been two cases of failure of the screw that secures the blade clamp. Examination revealed that these failures were the result of assembly stress in the screw head and nonconforming hardness of the affected screws. Also, in some cases, the lock-wiring hole was missing from the screw head making it impossible to install safety wire between the screw head and the nut.

Actions and Compliance

(e) Inspect each clamp within 50 hours time-in-service (TIS), without exceeding 3 months, for each clamp with an attachment screw that is not welded to the barrel, or within 20 hours TIS, without exceeding 1 month, for each clamp with an attachment screw that is welded to the barrel as follows, unless already accomplished:

(1) Remove the clamp from the distributor, as depicted in Figure 2 and by following paragraph 2.B.2.a. of the Accomplishment Instructions, in Eurocopter Emergency Alert Service Bulletin No. 30.00.66, Revision 1, dated August 21, 2008 (ASB 332) for the Model AS332 C, C1, L, L1 helicopters or Eurocopter Emergency Alert Service Bulletin No. 30.20, Revision 1, dated August 21, 2008 (ASB 330) for the Model SA330 J, F, and G helicopters.

Note: The service bulletin references 3 documents: No. 30.00.66 for Model AS332 helicopters, No. 30.00.26 for Model AS532 helicopters, and No. 30.20 for Model SA330 helicopters. This AD does not reference No. 30.00.26 because the Model AS532 helicopters are not type certificated in the United States. 14 CFR part 39 only allows the FAA to issue ADs against type certificated products.

(2) Measure the clearance between the screw head and the clamp as depicted in Figure 1 and by following paragraph 2.B.2.b. of the Accomplishment Instructions of ASB 332 or ASB 330, as appropriate for your model helicopter. If the clearance is less than 1 millimeter, rework the clamp until the clearance is between 1 and 2 millimeters.

(3) Inspect the screw for a crack and for a safety-wire hole in the head of the screw as depicted in Figure 2 and by following paragraph 2.B.2.c. of the Accomplishment Instructions of ASB 332 or ASB 330, as appropriate for your model helicopter.

(i) If there is a crack in the screw, before further flight, replace the screw.

(ii) If there is no safety-wire hole in the head of the screw, before further flight, either replace the screw with a screw having a safety wire hole or drill a hole as depicted in Figure 2, Detail D, of either ASB 332 or ASB 330, as appropriate for your model helicopter.

(4) If there is a P/N on the clamp, vibro-engrave the letter ''V'' after the P/N on the band of the clamp, as depicted in Detail G of Figure 4 of either ASB 332 or ASB 330, as appropriate for your model helicopter. If there is no P/N marked on the clamp, vibro-engrave the letter ''V'' on the band of the clamp near to the screw head.

(5) Safety the clamp as shown in Figure 3 of either ASB 332 or ASB 330, as appropriate for your model helicopter.

Differences Between This AD and the MCAI AD

(f) We refer to the actions required by the AD as inspections rather than checks.

Other Information

(g) Alternative Methods of Compliance (AMOCs): The Manager, Safety Management Group, ATTN: DOT/FAA Southwest Region, J. R. Holton, Jr., ASW–112, Aviation Safety Engineer, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–4964, fax (817) 222–5961, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(h) EASA AD No. 2009–0003R1, dated January 13, 2009.

Joint Aircraft System/Component (JASC) Code

(i) JASC Code 3000, Ice and Rain Protection System.

Material Incorporated by Reference

(j) You must use the specified portions of Eurocopter Emergency Alert Service Bulletin 30.00.66 for the AS332 Model C, C1, L, and L1 helicopters and No. 30.20 for the Model J, F, and G helicopters, both Revision 1, both dated August 21, 2008, to do the actions required.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, TX 75053–4005, telephone (800) 232–0323, fax (972) 641–3710, or at *http://www.eurocopter.com.*

(3) You may review copies at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd.; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Fort Worth, Texas, on October 21, 2009.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E9–26118 Filed 12–11–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–1162; Directorate Identifier 2009–CE–066–AD; Amendment 39–16136; AD 2009–26–01]

RIN 2120–AA64

Airworthiness Directives; Cirrus Design Corporation Model SR22 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Cirrus Design Corporation Model SR22 airplanes equipped with an anti-ice system approved for flight into known icing. This AD requires you to inspect the compression fittings on the anti-ice fluid distribution lines for proper installation and repair any fittings that were not properly installed. This AD results from the manufacturer finding some anti-ice fluid distribution lines where the compression fittings were not properly installed. We are issuing this AD to detect and correct anti-ice fluid distribution lines with improperly installed compression fittings, which could result in anti-ice fluid distribution line separation. A line separation could result in a total loss of ice protection fluid supply to the protected surfaces, which would allow ice to build on the airplane and degrade the handling qualities and performance.

DATES: This AD becomes effective on December 21, 2009.

On December 21, 2009, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

We must receive any comments on this AD by January 28, 2010.

ADDRESSES: Use one of the following addresses to comment on this AD.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

To get the service information identified in this AD, contact Cirrus Design Corporation, 4515 Taylor Circle, Duluth, MN 55811–1548; telephone: (218) 788–3000; fax: (218) 788–3525; e-mail: *fieldservice@cirrusaircraft.com;* Internet: *http://cirrusaircraft.com.*

To view the comments to this AD, go to *http://www.regulations.gov.* The docket number is FAA–2009–1162; Directorate Identifier 2009–CE–066–AD.

FOR FURTHER INFORMATION CONTACT: Anthony Flores, Aerospace Engineer, Chicago Aircraft Certification Office (ACO), 2300 E. Devon Ave., Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–7140; fax: (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Discussion

We were notified by Cirrus Design Corporation that, during a quality assurance inspection test flight on a Model SR22 airplane, a compression fitting separated from an anti-ice fluid distribution line. They determined the root cause of this failure was improper crimping of the fitting during fabrication. The condition is possible on other SR22 airplanes since this fabrication procedure had not changed since approval of the flight into known icing system.

This condition, if not corrected, could result in anti-ice fluid distribution line separation. A line separation could result in a total loss of ice protection fluid supply to the protected surfaces, which would allow ice to build on the airplane and degrade the handling qualities and performance.

Relevant Service Information

We reviewed Cirrus SR22 Service Bulletin SB 2X–30–08, dated November 9, 2009. The service information describes procedures for inspecting the anti-ice fluid distribution line compression fittings for proper installation. The service information also describes procedures for properly installing compression fittings on the anti-ice fluid distribution lines.

FAA's Determination and Requirements of This AD

We are issuing this AD because we evaluated all the information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This AD requires you to inspect for proper installation of compression fittings on the anti-ice fluid distribution lines and repair any fittings that were not properly installed.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because a malfunction of the anti-ice system could result in a total loss of ice protection fluid supply to the protected surfaces. This condition would allow ice to build on the airplane and degrade the handling qualities and performance. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and an opportunity for public comment. We invite you to send any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number ''FAA–2009–1162; Directorate Identifier 2009–CE–066–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive concerning this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866;

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

Examining the AD Docket

You may examine the AD docket that contains the AD, the regulatory evaluation, any comments received, and other information on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5527) is located at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2009–26–01 Cirrus Design Corporation: Amendment 39–16136; Docket No. FAA–2009–1162; Directorate Identifier 2009–CE–066–AD.

Effective Date

(a) This AD becomes effective on December 21, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model SR22 airplanes; serial numbers 3409, 3411 through 3430, 3432 through 3441, 3443 through 3450, 3455 through 3465, 3467, 3468, 3470 through 3472, 3485, 3486, 3488, 3489, 3491 through 3493, 3495 through 3500, 3504, 3505, 3512, 3513, 3517, 3524, 3525, 3528, and 3546 that are:

(1) Equipped with an anti-ice system approved for flight into known icing; and

(2) Certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 30: Ice and Rain Protection.

Unsafe Condition

(e) This AD is the result of an anti-ice fluid line separation during a quality assurance inspection at the manufacturing plant. We are issuing this AD to detect and correct anti-ice fluid distribution lines with improperly installed compression fittings, which could result in anti-ice fluid distribution line separation. A line separation could result in a total loss of ice protection fluid supply to the protected surfaces, which would allow ice to build on the airplane and degrade the handling qualities and performance.

Compliance

(f) To address this problem, you must do the following, unless already done:

Actions	Compliance	Procedures
(1) Fabricate a placard (using at least 1/8-inch letters) with the following words and install a placard on the instrument panel within the pilot's clear view: ''FLIGHT INTO KNOWN OR FORECAST ICING PROHIBITED.''	Before further flight after December 21, 2009 (the effective date of this AD), unless the inspection requirement of paragraph (f)(2) has already been done.	Not Applicable.

Actions	Compliance	Procedures
(2) Inspect and repair as necessary the anti-ice fluid line compression fittings. Accomplishment of all of the actions specified in Cirrus SR22 service bulletin SB 2X–30–08, dated November 9, 2009, terminates the placard requirements specified in paragraph (f)(1) of this AD.	(i) Inspect at the next scheduled inspection after December 21, 2009 (the effective date of this AD) or within the next 100 hours time-in-service after December 21, 2009 (the effective date of this AD), whichever occurs first. (ii) Repair before further flight after the inspection specified in paragraph (f)(2) of this AD where any incorrectly installed compression fittings are found.	Follow Cirrus SR22 Service Bulletin SB 2X–30–08, dated November 9, 2009.

Alternative Methods of Compliance (AMOCs)

(g) The Manager, Chicago Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Anthony Flores, Aerospace Engineer, Chicago Aircraft Certification Office (ACO), 2300 E. Devon Ave., Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–7140; fax: (847) 294–7834. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Material Incorporated by Reference

(h) You must use Cirrus SR22 Service Bulletin SB 2X–30–08, dated November 9, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Cirrus Design Corporation, 4515 Taylor Circle, Duluth, MN 55811–1548; telephone: (218) 788–3000; fax: (218) 788–3525; e-mail: *fieldservice@cirrusaircraft.com*; Internet: *http://cirrusaircraft.com*.

(3) You may review copies of the service information incorporated by reference for this AD at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the Central Region, call (816) 329–3768.

(4) You may also review copies of the service information incorporated by reference for this AD at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Issued in Kansas City, Missouri, on December 4, 2009.

William Timberlake,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–29578 Filed 12–11–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0018; Directorate Identifier 2009–NE–01–AD; Amendment 39–16044; AD 2009–21–07]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–80C2 Series Turbofan Engines; Correction

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; correction.

SUMMARY: The FAA is correcting airworthiness directive (AD) 2009–21–07, which published in the **Federal Register.** That AD applies to General Electric Company (GE) CF6–80C2 series turbofan engines with certain thrust reverser ballscrew gearbox assembly adjustable-length end actuators installed. The unsafe condition statement of ''We are issuing this AD to prevent loss of asymmetric thrust and thrust control'', and rod-end part number ''MS2124S06'' in paragraph (j) are incorrect. This document corrects the unsafe condition statement and the part number. In all other respects, the original document remains the same.

DATES: Effective December 14, 2009.

FOR FURTHER INFORMATION CONTACT: Christopher J. Richards, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *christopher.j.richards@faa.gov;* telephone (781) 238–7133; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On October 27, 2009 (74 FR 55126), we published a final rule AD, FR Doc. E9–24391, in the **Federal Register.** That AD applies to GE CF6–80C2 series turbofan engines with certain thrust reverser ballscrew gearbox assembly adjustable-length end actuators installed. We need to make the following corrections:

§ 39.13 [Corrected]

On page 55126, in the second column, in the last sentence of the Summary Section, ''We are issuing this AD to prevent loss of asymmetric thrust and thrust control.'' is corrected to read ''We are issuing this AD to prevent asymmetric thrust and loss of thrust control.''

On page 55129, in the third column, in the last sentence of paragraph (d), ''We are issuing this AD to prevent loss of asymmetric thrust and thrust control.'' is corrected to read ''We are issuing this AD to prevent asymmetric thrust and loss of thrust control.''

On page 55130, in the first column, in paragraph (j), in the third line, ''MS2124S06'' is corrected to read ''MS21242S06.''

Issued in Burlington, Massachusetts, on December 4, 2009.

Peter A. White,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E9–29483 Filed 12–11–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0143; Directorate Identifier 2009–NE–05–AD; Amendment 39–16135; AD 2009–25–14]

RIN 2120–AA64

Airworthiness Directives; General Electric Company GE90–110B1, GE90–113B, and GE90–115B Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for General Electric Company (GE) GE90–110B1, GE90–113B, and GE90–115B series turbofan engines with stage 6 low-pressure turbine (LPT) blades, part number (P/N) 1765M37P03 or P/N

1765M37P04, installed. This AD requires initial and repetitive inspections for shroud interlock wear of the stage 6 LPT blades. This AD also requires replacing those blades with stage 6 LPT blades eligible for installation at the next engine shop visit as terminating action to the repetitive blade inspections. This AD results from eight reports of GE90–115B stage 6 LPT single-blade separation events. We are issuing this AD to prevent failure of stage 6 LPT blades, which could result in uncontained engine failure and damage to the airplane.

DATES: This AD becomes effective January 19, 2010. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of January 19, 2010.

ADDRESSES: You can get the service information identified in this AD from General Electric Company via GE–Aviation, *Attn:* Distributions, 111 Merchant St., Room 230, Cincinnati, Ohio 45246; telephone (513) 552–3272; fax (513) 552–3329.

The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *barbara.caufield@faa.gov;* telephone (781) 238–7146; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to GE GE90–110B1, GE90–113B, and GE90–115B series turbofan engines with stage 6 LPT blades, P/N 1765M37P03 or P/N 1765M37P04, installed. We published the proposed AD in the **Federal Register** on June 24, 2009 (74 FR 30020). That action proposed to require initial and repetitive inspections for shroud interlock wear of the stage 6 LPT blades. That action also proposed to require replacing those blades with stage 6 LPT blades eligible for installation at the next engine shop visit as terminating action to the repetitive blade inspections.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Request To Include Service Bulletin (SB) Revision 3

One commenter, All Nippon Airways, requests that we include GE SB No. GE90–100 SB 72–0260, Revision 3, dated July 17, 2008, in Previous Credit paragraph (i).

We do not agree. That SB does not specifically call out the need to inspect engines with replacement, original configuration, stage 6 LPT blades. We did not change the AD.

Request To Correct SB Paragraph References

All Nippon Airways and Japan Airlines requests that in paragraph (f), we correct the reference of what paragraphs to use in the SB, from ''3.A through 3.A.(3)(g)(12)'', to ''3.A through 3.A.(2)(g)(12)''.

We agree the reference needs correcting. We made the correction, but listed the latest revision of the SB, which is GE SB No. GE90–100 SB 72–0260, Revision 7, dated June 2, 2009. We also added SB No. GE90–100 SB 72–0260, Revision 6, dated May 1, 2009, to the Previous Credit paragraph.

Requests To Change the Unsafe Condition Paragraph (d)

GE Aviation requests that we change the Unsafe Condition paragraph (d) to state that, in each case, the engine continued to produce commanded thrust.

We do not agree. Although the statement is true, adding it would lessen the impact of, and detract from, the existing unsafe condition statement. We did not change the AD.

Boeing requests that we change the Unsafe Condition paragraph (d) to also state that there is a remote possibility of the unsafe condition event occurring on both engines on a given flight.

We do not agree. We considered the possibility of a dual-engine failure event during our safety analysis and when determining the appropriate compliance actions for this AD. We did not change the AD.

Request To Reference the Latest GE SB Revision

GE Aviation, Japan Airlines, and Eva Air request that we reference using latest GE SB in the AD, which is SB No. GE90–100 SB 72–0260, Revision 7, dated June 2, 2009.

We agree and have referenced the use of Revision 7 in the AD.

Request To Reference the Use of Later-FAA-Approved SB Revisions

One commenter, V Australia, requests that we state to use ''or later-FAA-approved revision of the SB'' in the AD. The commenter states that Revision 7 has been issued since the proposed AD was issued, and it is likely that GE will issue more revisions.

We do not agree. Rulemaking requirements do not permit advance approval of unknown future revisions to service bulletins. We did not change the AD.

Request To Add SB Revision 6 to Previous Credit Paragraph (i)

GE Aviation and Japan Airlines request that we add GE SB No. GE90–100 SB 72–0260, Revision 6, dated May 1, 2009, to the list of SB revisions in the Previous Credit paragraph (i).

We agree and added SB Revision 6 to that paragraph.

Request for Change in Definition Paragraph (j)

Japan Airlines requests that we change the Definition paragraph (j) to exclude the induction of engines into the shop for maintenance action that can be performed at line maintenance, but which is performed in the shop for operator convenience. The commenter states that making this change will help eliminate an unnecessary burden to the operators.

We do not agree. The existing engine shop visit definition is intended to lead operators to perform the terminating action as soon as possible. Doing this will reduce the reliance upon repetitive inspections and continued risk of blade failure. We did not change the AD.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

We estimate that this AD will affect four GE GE90–110B1, GE90–113B, and

GE90–115B series engines installed on airplanes of U.S. registry. We also estimate that it will take about 18 work-hours per engine to perform one inspection of the stage 6 LPT blades, and that the average labor rate is $80 per work-hour. Replacement stage 6 LPT blades will cost $258,280 per engine. We estimate that no additional labor costs will be incurred to perform the required blade replacements, because the replacements will be done during a scheduled engine shop visit. Based on these figures, we estimate the total cost of the AD for one inspection to U.S. operators to be $1,038,880.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866;

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary at the address listed under **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2009–25–14 General Electric Company: Amendment 39–16135. Docket No. FAA–2009–0143; Directorate Identifier 2009–NE–05–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective January 19, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to General Electric Company (GE) GE90–110B1, GE90–113B, and GE90–115B series turbofan engines with stage 6 low-pressure turbine (LPT) blades, part number (P/N) 1765M37P03 or P/N 1765M37P04, installed. These engines are installed on, but not limited to, Boeing 777–200LR, 777–300ER, and 777 Freighter series airplanes.

Unsafe Condition

(d) This AD results from eight reports of GE90–115B stage 6 LPT single-blade separation events. We are issuing this AD to prevent failure of stage 6 LPT blades, which could result in uncontained engine failure and damage to the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Inspections

(f) Before accumulating 3,000 engine operating hours time-since-new, or 400 engine cycles-since-new, whichever occurs first, inspect the stage 6 LPT blades, P/N 1765M37P03 or P/N 1765M37P04 for shroud interlock wear. Thereafter, re-inspect within every 1,000 engine operating hours, or within 125 engine cycles-since-last inspection, whichever occurs first. Use paragraphs 3.A. through 3.A.(2)(g)(12) of the Accomplishment Instructions of GE Service Bulletin (SB) No. GE90–100 SB 72–0260, Revision 7, dated June 2, 2009, to do both the initial and repetitive inspections.

Terminating Action

(g) At the next engine shop visit, replace the stage 6 LPT blades, P/N 1765M37P03 or P/N 1765M37P04, with stage 6 LPT blades eligible for installation as terminating action to the repetitive inspections required by this AD.

Installation Prohibition of Affected Stage 6 LPT Blades

(h) After the effective date of this AD, do not install any stage 6 LPT blades, P/N 1765M37P03 or P/N 1765M37P04, onto any engine.

Previous Credit

(i) An inspection performed before the effective date of this AD using GE SB No. GE90–100 SB 72–0260, Revision 4, dated October 8, 2008, or Revision 5, dated November 7, 2008, or Revision 6, dated May 1, 2009, satisfies the initial inspection requirement of this AD.

Definition

(j) For the purpose of this AD, an engine shop visit is induction of the engine into the shop for any cause.

Alternative Methods of Compliance

(k) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(l) Contact Barbara Caufield, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *barbara.caufield@faa.gov;* telephone (781) 238–7146; fax (781) 238–7199, for more information about this AD.

(m) Guidance on determining which stage 6 LPT blades are eligible for installation can be found in GE Service Bulletin No. 72–0279, Revision 1, dated December 11, 2008, and GE Service Bulletin No. 72–0313, dated March 18, 2009.

Material Incorporated by Reference

(n) You must use GE Service Bulletin No. GE90–100 SB 72–0260, Revision 7, dated June 2, 2009, to perform the inspections required by this AD. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact General Electric Company via GE–Aviation, *Attn:* Distributions, 111 Merchant St., Room 230, Cincinnati, Ohio 45246; telephone (513) 552–3272; fax (513) 552–3329, for a copy of this service information. You may review copies at the FAA, New England Region, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on December 4, 2009.

Peter A. White,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E9–29428 Filed 12–11–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–1124; Directorate Identifier 2009–SW–35–AD; Amendment 39–16128; AD 2009–25–09]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model SA 330 F, G, and J Helicopters

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the specified Eurocopter France (Eurocopter) helicopters. This AD results from a mandatory continuing airworthiness information (MCAI) AD issued by the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community. The MCAI Emergency AD states that there has been a report of the failure of a flexible coupling on one of the main gearbox (MGB) inputs, which may be the result of loss of the tightening torque load, or insufficient tightening of the nuts on the bolts fixing the discs of the flexible coupling to its sliding and fixed hinges. This condition, if not corrected, could result in failure of the coupling discs, and if this condition develops on both the left-hand (LH) and right-hand (RH) MGB inputs, a complete loss of power to the transmission and subsequent loss of control of the helicopter.

DATES: This AD becomes effective on December 29, 2009.

The incorporation by reference of certain publications is approved by the Director of the Federal Register as of December 29, 2009.

We must receive comments on this AD by February 12, 2010.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting your comments electronically.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may get the service information identified in this AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, TX 75053–4005, telephone (800) 232–0323, fax (972) 641–3710, or at *http://www.eurocopter.com*.

Examining the Docket: You may examine the AD docket on the Internet at *http://www.regulations.gov*, or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is stated in the **ADDRESSES** section of this AD. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: DOT/FAA Southwest Region, Ed Cuevas, Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone 817–222–5355, fax 817–222–5961.

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Community, has issued EASA AD No. 2008–0049–E, dated March 3, 2008 (Corrected: March 7, 2008), to correct an unsafe condition for Eurocopter Model SA 330 F, G, and J helicopters, all serial numbers, with MGB input flexible coupling sliding and fixed flanges assemblies installed that have been modified per MOD 0752416 and MOD 0752419, but have not been subject to maintenance scheduled inspection per Working Card 65.32.601 since new or since a complete overhaul of the MGB. There has been one report of the failure of a modified flexible coupling assembly on one of the MGB inputs, which EASA has deemed to be the result of the loss of the tightening torque load, or insufficient tightening of the nuts on the bolts attaching the disks of the flexible coupling to its sliding and fixed flanges. This condition, if not corrected, could result in progressive fatigue failure of the coupling discs, caused by extensive fretting on the faces and in the holes of the flexible coupling discs. If this unsafe condition develops on both the LH and RH MGB inputs, it could result in a complete loss of power to the transmission and subsequent loss of control of the helicopter.

Related Service Information

Eurocopter has issued Emergency Alert Service Bulletin No. 05.95, dated March 3, 2008, which specifies readjusting or checking the tightening torque load of the nuts on the bolts attaching the flexible coupling to the sliding coupling flange and the bolts attaching the flexible coupling to the fixed coupling flange, in order to prevent any damage to the flexible couplings, which, over time, may lead to the loss of input drive to the MGB. The actions described in the MCAI are intended to correct the same unsafe conditions as those identified in the service information.

FAA's Evaluation and Unsafe Condition Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, their Technical Agent, has notified us of the unsafe condition described in the MCAI AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe conditions exist and are likely to exist or develop on other helicopters of these same type designs.

Differences Between This AD and the MCAI AD

The MCAI AD uses the term ''flight hours'' instead of ''hours time-in-service'', as we have used in this AD. Also, the MCAI AD allows ''use of later approved revisions'' of the service information to comply with the MCAI AD. Our AD requires compliance in accordance with the Eurocopter EASB. Additionally, this AD requires ''inspections'' conducted by a qualified mechanic, instead of ''checks'', which we allow a pilot to do. Finally, contacting Eurocopter Technical Support is not required by this AD as it is by the MCAI AD.

Costs of Compliance

We estimate that this AD will affect about 14 helicopters of U.S. registry. We also estimate that it will take about:

- 8 work-hours per helicopter to remove the engine, re-adjust the

tightening torque load, and re-install the engine for 10 helicopters in the fleet;

• 10 work-hours per helicopter to remove the engine, measure the tightening torque load, and re-install the engine on 3 helicopters in the fleet; and

• 12 work-hours to remove the engine, inspect and replace a damaged flexible coupling, and re-install the engine on 1 helicopter.

The average labor rate is $80 per work-hour. Costs to replace a damaged flexible coupling, if necessary, include $1,018 for 6 nuts, $838 for 1 flexible coupling, $71 for 6 (6 each) bolts, and $624 for 12 washers. Based on these figures, we estimate the cost of this AD on U.S. operators will be $12,311, assuming that 1 flexible coupling is damaged and needs to be replaced.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. We find that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because loss of the tightening torque load or insufficient tightening of the nuts on the bolts attaching the disks of the flexible coupling to its sliding and fixed flanges could result in a complete loss of power to the transmission, and there are helicopters that will be required to comply with this AD within a short time period because of the criticality of this unsafe condition. Therefore, we have determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. However, we invite you to send us any written data, views, or arguments concerning this AD. Send your comments to an address listed under the **ADDRESSES** section of this AD. Include ''Docket No. FAA–2009–1124; Directorate Identifier 2009–SW–35–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on helicopters identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Therefore, I certify this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared an economic evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2009–25–09 Eurocopter France: Amendment 39–16128. Docket No. FAA–2009–1124; Directorate Identifier 2009–SW–35–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective on December 29, 2009.

Other Affected ADs

(b) None.

Applicability

(c) This AD applies to Model SA 330 F, G, and J helicopters, all serial numbers, with main gearbox (MGB) input flexible coupling flange assemblies, part number (P/N) 330A–32937401, installed that have been modified per MOD 0752416 and MOD 0752419, but have not been subject to a maintenance scheduled inspection per Working Card 65.32.601 since new or since a complete overhaul of the MGB, certificated in any category.

Reason

(d) The mandatory continuing airworthiness information (MCAI) AD states that there has been one report of disks failure of a flexible coupling on one of the MGB inputs, which may be the result of the loss of the tightening torque load, or insufficient tightening of the nuts on the bolts attaching the disks of the flexible coupling to its sliding and fixed flanges. This condition, if not corrected, could result in progressive fatigue failure of the coupling discs, caused by extensive fretting on the faces and in the holes of the flexible coupling discs. If this unsafe condition develops on both the LH and RH MGB inputs, a complete power loss to the transmission could occur, resulting in subsequent loss of control of the helicopter.

Actions and Compliance

(e) Required as indicated, unless previously accomplished.

(1) For MGB input flexible coupling flange assemblies with less than 50 hours time-in-service (TIS) since new or since a complete overhaul of the MGB, re-adjust the tightening torque load of the 6 nuts on the flexible coupling-to-flange attachment bolts. Accomplish this re-adjustment between 50 hours TIS and 75 hours TIS since new or since a complete overhaul of the MGB in accordance with paragraph 2.B.2.a. of Eurocopter Emergency Alert Service Bulletin No. 05.95, dated March 3, 2008 (EASB).

(2) For MGB input flexible coupling flange assemblies with 50 hours TIS and 75 or less hours TIS since new or since a complete overhaul of the MGB, either:

(i) Upon or before reaching 75 hours TIS since new or since a complete overhaul of the MGB, re-adjust the tightening torque load of the 6 nuts on the flexible coupling-to-flange attachment bolts in accordance with paragraph 2.B.2.a. of the EASB; or

(ii) Upon or before reaching 125 hours TIS since new or since a complete overhaul of the

MGB, inspect the tightening torque load of the 6 nuts on the flexible coupling-to-flange attachment bolts in accordance with paragraph 2.B.2.b. of the EASB, except you are not required to contact the manufacturer.

(3) For MGB input flexible coupling flange assemblies that have more than 75 hours TIS since new or since a complete overhaul of the MGB, within the next 50 hours TIS, inspect the tightening torque load of the 6 nuts on the flexible coupling-to-flange attachment bolts, in accordance with paragraph 2.B.2.b. of the EASB, except you are not required to contact the manufacturer.

(4) Prior to installing a MGB that contains an input flexible coupling flange assembly that has been modified per MOD 0752416 and MOD 0752419, you must comply with the provisions of this AD.

Differences Between This AD and the MCAI AD

(f) The MCAI AD uses the term ''flight hours'' instead of ''hours time-in-service'', as we have used in this AD. Also, the MCAI AD allows ''use of later approved revisions'' of the service information to comply with the MCAI AD. Our AD requires compliance in accordance with Eurocopter Emergency Alert Service Bulletin No. 05.95, dated March 3, 2008. Additionally, this AD requires ''inspections'' by a qualified mechanic instead of ''checks'', which we allow a pilot to do. Finally, this AD does not require you to contact Eurocopter Technical Support, which is required by the MCAI AD.

Other Information

(g) *Alternative Methods of Compliance (AMOCs):* The Manager, Safety Management Group, *Attn:* DOT/FAA Southwest Region, Ed Cuevas, Aerospace Engineer, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5355, fax (817) 222–5961, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(h) European Aviation Safety Agency MCAI Airworthiness Directive No. 2009–0049–E, dated March 3, 2008 (Corrected: March 7, 2008), contains related information.

Joint Aircraft System/Component Code

(i) JASC Code 6310: Engine/Transmission Coupling.

Material Incorporated by Reference

(j) You must use the specified portions of Eurocopter Emergency Alert Service Bulletin No. 05.95, dated March 3, 2008, to do the actions required.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, TX 75053–4005, telephone (800) 232–0323, fax (972) 641–3710, or at *http://www.eurocopter.com*.

(3) You may review copies at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Fort Worth, Texas 76137; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued in Fort Worth, Texas, on November 18, 2009.

Gary B. Roach,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E9–29424 Filed 12–11–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

[Docket No. FDA–2009–N–0665]

New Animal Drugs; Change of Sponsor's Name and Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor's name from Schering-Plough Animal Health Corp. to Intervet, Inc., and to change the sponsor's mailing address.

DATES: This rule is effective December 14, 2009.

FOR FURTHER INFORMATION CONTACT: David R. Newkirk, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8307, e-mail: *david.newkirk@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Schering-Plough Animal Health Corp., 556 Morris Ave., Summit, NJ 07901, has informed FDA of a change of name and mailing address to Intervet, Inc., 56 Livingston Ave., Roseland, NJ 07068. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c) to reflect these changes.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

■ Therefore, under the Federal Food, Drug and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. In § 510.600, in the table in paragraph (c)(1), remove the entry for ''Schering-Plough Animal Health Corp.'' and alphabetically add a new entry for ''Intervet, Inc.''; and in the table in paragraph (c)(2), revise the entry for ''000061'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * *	* *
Intervet, Inc., 56 Livingston Ave., Roseland, NJ 07068	000061
* * *	* *

(2) * * *

Drug labeler code	Firm name and address
* *	* * *
000061	Intervet, Inc., 56 Livingston Ave., Roseland, NJ 07068
* *	* * *

Dated: December 8, 2009.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. E9–29627 Filed 12–11–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

[Docket No. FDA–2009–N–0665]

Implantation or Injectable Dosage Form New Animal Drugs; Insulin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an original new animal drug application (NADA) filed by Boehringer Ingelheim Vetmedica, Inc. The NADA provides for veterinary prescription use of an injectable suspension of protamine zinc recombinant human insulin for the reduction of hyperglycemia and hyperglycemia-associated clinical signs in cats with diabetes mellitus.

DATES: This rule is effective December 14, 2009.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8337, e-mail: *melanie.berson@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Boehringer Ingelheim Vetmedica, Inc., 2621 North Belt Highway, St. Joseph, MO 64506–2002, filed NADA 141–297 that provides for the veterinary prescription use of PROZINC (protamine zinc recombinant human insulin), an injectable suspension for the reduction of hyperglycemia and hyperglycemia-associated clinical signs in cats with diabetes mellitus. The NADA is approved as of October 28, 2009, and the regulations are amended in 21 CFR 522.1160 to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33 that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 522

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. In § 522.1160, revise paragraphs (a), (b), and (c)(2)(i) to read as follows:

§ 522.1160 Insulin.

(a) *Specifications*—(1) Each milliliter (mL) of porcine insulin zinc suspension contains 40 international units (IU) of insulin.

(2) Each mL of protamine zinc recombinant human insulin suspension contains 40 IU of insulin.

(b) *Sponsors.* See sponsors in § 510.600 of this chapter for use as in paragraph (c) of this section.

(1) No. 000061 for use of product described in paragraph (a)(1) of this section as in paragraphs (c)(1), (c)(2)(i)(A), (c)(2)(ii), and (c)(2)(iii) of this section.

(2) No. 000010 for use of product described in paragraph (a)(2) of this section as in paragraphs (c)(2)(i)(B), (c)(2)(ii), and (c)(2)(iii) of this section.

(c) * * *

(2) *Cats*—(i) *Amount*—(A) *Porcine insulin zinc.* Administer an initial dose of 1 to 2 IU by subcutaneous injection. Injections should be given twice daily at approximately 12-hour intervals. For cats fed twice daily, the injections should be concurrent with or right after a meal. For cats fed ad libitum, no change in feeding is needed. Adjust the dose at appropriate intervals based on clinical signs, urinalysis results, and glucose curve values until adequate glycemic control has been attained.

(B) *Protamine zinc recombinant human insulin.* Administer an initial dose of 0.1 to 0.3 IU/pound of body weight (0.2 to 0.7 IU/kilogram) every 12 hours. The dose should be given concurrently with or right after a meal. Re-evaluate the cat at appropriate intervals and adjust the dose based on both clinical signs and glucose nadirs until adequate glycemic control has been attained.

* * * * *

Dated: December 8, 2009.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. E9–29583 Filed 12–11–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9474]

RIN 1545–BF14

Reduction in Taxable Income for Housing Hurricane Katrina Displaced Individuals

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to the reduction in taxable income under section 302 of the Katrina Emergency Tax Relief Act of 2005. The final regulations also reflect legislation under section 702 of the Heartland Disaster Tax Relief Act of 2008. The final regulations affect taxpayers who provide housing in their principal residences to individuals displaced by certain major disasters.

Effective Date: These regulations are effective on December 14, 2009.

Applicability Date: For date of applicability, see § 1.9300–1(h).

FOR FURTHER INFORMATION CONTACT: Shareen S. Pflanz, 202–622–4920 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains final regulations that replace the temporary regulations in 26 CFR Part 1 relating to the reduction in taxable income for housing provided to displaced individuals under section 302 of the Katrina Emergency Tax Relief Act of 2005 (Pub. L. 109–73, 119 Stat. 2016) (KETRA). This document also applies these rules to individuals displaced in a Midwestern disaster area, as defined in section 702 of the Heartland Disaster Tax Relief Act of 2008 (Title VII of Division C of Pub. L. 110–343, 122 Stat. 3912) (HDTRA).

On December 12, 2006, temporary regulations (TD 9301) were published in the **Federal Register** (71 FR 74467). A notice of proposed rulemaking (REG–152043–05) cross-referencing the temporary regulations was also published in the **Federal Register** (71 FR 74482). No public hearing was requested or held. No written comments responding to the notice of proposed rulemaking were received. The proposed regulations are adopted as amended by this Treasury decision to implement section 702 of HDTRA.

Section 702 of HDTRA, enacted on October 3, 2008, applies section 302 of KETRA to the Midwestern disaster area. The Midwestern disaster area is the area for which the President declared (after May 19, 2008, and before August 1, 2008) a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) (Stafford Act). The disaster occurred by reason of severe storms, tornados, or flooding in the states of Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, and Wisconsin. The applicable disaster date for each state in the Midwestern disaster area is the date of the severe storm, tornado, or flooding giving rise to the Presidential declaration for that state. See **Federal Register** notices for each state at *http://www.FEMA.gov*. The reduction in taxable income for providing housing to a displaced individual in a Midwestern disaster area applies to taxable years beginning in 2008 or 2009.

Accordingly, the final regulations expand the scope of the temporary regulations to include taxpayers who provide housing in their principal residences to Midwestern disaster displaced individuals. The final regulations expand the definitions under § 1.9300–1T(e) of the temporary regulations relating to Hurricane Katrina to include the Midwestern disaster area.

The final regulations also clarify that the limitations on the reduction in taxable income apply separately to the Hurricane Katrina disaster area and the Midwestern disaster area. Thus, for example, a taxpayer may reduce taxable income by up to $2,000 for providing housing to Midwestern disaster displaced individuals even though the taxpayer reduced taxable income for providing housing to one or more Hurricane Katrina displaced individuals.

The temporary regulations provided that the maximum dollar limitation for a married individual who files a separate income tax return is $1,000. The final regulations provide that the maximum dollar limitation is $2,000 for married taxpayers filing jointly or separately. Married taxpayers filing separate income tax returns may allocate the $2,000 between the returns.

The final regulations authorize the Commissioner to apply these rules in additional guidance of general applicability, see § 601.601(d)(2) of the Internal Revenue Practice Regulations, if Congress extends relief under section 302 of KETRA to other disaster areas in the future.

Effective/Applicability Date

These regulations apply to taxable years ending after December 11, 2006. Taxpayers who, after filing their tax returns for 2006 or 2008 as married filing separately, want to apply the rule allowing them to allocate the $2,000 maximum limitation between them, may do so by filing amended returns if the period of limitations on credit or refund under section 6511 has not expired.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking that preceded these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Shareen S. Pflanz of the Office of the Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by removing the entry for § 1.9300–1T to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.9300–1 is added to read as follows:

§ 1.9300–1 Reduction in taxable income for housing displaced individuals.

(a) *In general.* For a taxable year beginning in the applicable taxable year (as defined in paragraph (f)(1) of this section), a taxpayer who is a natural person may reduce taxable income by $500 for each displaced individual (as defined in paragraph (f)(2) of this section) to whom the taxpayer provides housing free of charge in, or on the site of, the taxpayer's principal residence for a period of at least 60 consecutive days. A taxpayer may claim the reduction in taxable income for any applicable taxable year in which a consecutive 60-day period ends. A taxpayer may not claim the reduction in taxable income unless the taxpayer includes the taxpayer identification number of the displaced individual on the taxpayer's income tax return.

(b) *Provision of housing*—(1) *Principal residence.* For purposes of this section, the term principal residence has the same meaning as in section 121 and the associated regulations. *See* § 1.121–1(b)(1) and (b)(2).

(2) *Legal interest required.* A taxpayer is treated as providing housing for purposes of this section only if the taxpayer is an owner or lessee (including a co-owner or co-lessee) of the principal residence.

(3) *Compensation for providing housing.* No reduction in taxable income is allowed under this section to a taxpayer who receives rent or any reimbursement or compensation (whether in cash, services, or property) from any source for providing housing to the displaced individual. For this purpose, lodging, utilities, and other similar items are treated as housing, but telephone calls, food, clothing, transportation, and other similar items are not treated as housing.

(c) *Limitations*—(1) *Dollar limitation*—(i) *In general.* The reduction in taxable income under paragraph (a) of this section may not exceed the maximum dollar limitation, and must be reduced by the total amount of all reductions under this section for all prior taxable years (except as provided in paragraph (c)(5) of this section). The maximum dollar limitation is—

(A) $2,000 in the case of an unmarried individual; or

(B) $2,000 in the case of a husband and wife, whether the husband and wife file a joint income tax return or separate income tax returns; married taxpayers filing separate income tax returns may allocate this amount in $500 increments between their respective returns, provided that each spouse is otherwise eligible to claim that reduction in taxable income.

(ii) *Married individuals with separate principal residences.* The limitation in paragraph (c)(1)(i)(B) of this section applies whether or not the married individuals occupy the same principal

residence. A person is treated as married for purposes of this section if the individual is treated as married under section 7703.

(2) *Spouse or dependent of the taxpayer.* No reduction of taxable income is allowed for a displaced individual who is the spouse or a dependent of the taxpayer.

(3) *One reduction per displaced individual.* Except as provided in paragraph (c)(5) of this section, a taxpayer may not reduce taxable income under paragraph (a) of this section for a displaced individual for whom the taxpayer or any taxpayer residing in the same principal residence has reduced taxable income under this section for any prior taxable year.

(4) *Taxpayers occupying the same principal residence.* Except as provided in paragraph (c)(5) of this section, for all taxable years, only one taxpayer occupying the same principal residence may reduce taxable income for a particular displaced individual.

(5) *Limitations applied separately to each disaster.* The limitations of this paragraph (c) apply separately to each disaster area. Thus, a taxpayer may reduce taxable income by $2,000 for providing housing to Midwestern disaster displaced individuals even though the taxpayer reduced taxable income for providing housing to one or more Hurricane Katrina displaced individuals. For this purpose, all areas within the Midwestern disaster area are treated as one disaster area.

(d) *Substantiation.* A taxpayer claiming a reduction of taxable income under this section must maintain records sufficient to show entitlement to the reduction as provided in forms, instructions, publications or other guidance published by the IRS.

(e) The Commissioner may apply this section in additional guidance of general applicability, see § 601.601(d)(2) of this chapter, to other disaster areas to which Congress extends relief under section 302 of the Katrina Emergency Tax Relief Act of 2005.

(f) *In general.* The following definitions apply for all purposes of this section.

(1) *Applicable taxable year.* The term *applicable taxable year* means—

(i) A taxable year beginning in 2005 or 2006, in the case of housing provided to a Hurricane Katrina displaced individual (as defined in paragraph (f)(2)(ii) of this section); and

(ii) A taxable year beginning in 2008 or 2009, in the case of housing provided to a Midwestern disaster displaced individual (as defined in paragraph (f)(2)(iii) of this section).

(2) *Displaced individual*—(i) *Scope.* The term *displaced individual* means a Hurricane Katrina displaced individual as defined in paragraph (f)(2)(ii) of this section and a Midwestern disaster displaced individual as defined in paragraph (f)(2)(iii) of this section.

(ii) *Hurricane Katrina displaced individual.* The term *Hurricane Katrina displaced individual* means any natural person (other than the spouse or a dependent of the taxpayer) if the following requirements are met—

(A) The person's principal place of abode on August 28, 2005, was in the Hurricane Katrina disaster area (as defined in paragraph (f)(4)(ii) of this section);

(B) The person was displaced from that abode; and

(C) If the abode was located outside the Hurricane Katrina core disaster area (as defined in paragraph (f)(5)(ii) of this section)—

(*1*) The abode was damaged by Hurricane Katrina; or

(*2*) The person was evacuated from that abode by reason of Hurricane Katrina.

(iii) *Midwestern disaster displaced individual.* The term *Midwestern disaster displaced individual* means any natural person (other than the spouse or a dependent of the taxpayer) if the following requirements are met—

(A) The person's principal place of abode on the Midwestern disaster date (as defined in paragraph (f)(3) of this section), was in any Midwestern disaster area (as defined in paragraph (f)(4)(iii) of this section);

(B) The person was displaced from that abode; and

(C) If the abode was located outside the Midwestern core disaster area (as defined in paragraph (f)(5)(iii) of this section)—

(*1*) The abode was damaged by any Midwestern disaster; or

(*2*) The person was evacuated from that abode by reason of any Midwestern disaster.

(3) *Midwestern disaster date.* The term *Midwestern disaster date* means—

(i) In Arkansas, May 2 through May 12, 2008;

(ii) In Illinois, June 1 through July 22, 2008;

(iii) In Indiana, May 30 through June 27, 2008;

(iv) In Iowa, May 25 through August 13, 2008;

(v) In Kansas, May 22 through June 16, 2008;

(vi) In Michigan, June 6 through June 13, 2008;

(vii) In Minnesota, June 6 through June 12, 2008;

(viii) In Missouri, May 10 through May 11, 2008, and June 1 through August 13, 2008;

(ix) In Nebraska, April 23 through April 26, 2008, May 22 through June 24, 2008, and June 27, 2008; or

(x) In Wisconsin, June 5 through July 25, 2008.

(4) *Disaster area*—(i) *Scope.* The term *disaster area* means the Hurricane Katrina disaster area as defined in paragraph (f)(4)(ii) of this section and the Midwestern disaster area as defined in paragraph (f)(4)(iii) of this section.

(ii) *Hurricane Katrina disaster area.* The term *Hurricane Katrina disaster area* means the states of Alabama, Florida, Louisiana, and Mississippi.

(iii) *Midwestern disaster area.* The term *Midwestern disaster area* means an area for which the President declared a major disaster on or after May 20, 2008, and before August 1, 2008, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) (Stafford Act) by reason of severe storms, tornados, or flooding occurring in any of the states of Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, and Wisconsin.

(5) *Core disaster area*—(i) *Scope.* The term *core disaster area* means the Hurricane Katrina core disaster area as defined in paragraph (f)(5)(ii) of this section and the Midwestern core disaster area as defined in paragraph (f)(5)(iii) of this section.

(ii) *Hurricane Katrina core disaster area.* The term *Hurricane Katrina core disaster area* means the portion of the Hurricane Katrina disaster area designated by the President to warrant individual or individual and public assistance from the federal government under the Stafford Act.

(iii) *Midwestern core disaster area.* The term *Midwestern core disaster area* means the portion of the Midwestern disaster area designated by the President to warrant individual or individual and public assistance from the federal government under the Stafford Act for damages attributable to the severe storms, tornados, or flooding in the Midwestern disaster area.

(g) *Examples.* The provisions of this section are illustrated by the following examples. In each example, a taxpayer provides housing within the meaning of paragraph (b) of this section in, or on the site of, the taxpayer's principal residence for a period of at least 60 consecutive days (the 60th day being in the applicable taxable year) for each displaced individual, none of whom is a spouse or dependent of the taxpayer. The examples are as follows:

Example 1. Taxpayer A provides housing to N, a Hurricane Katrina displaced individual, from September 1, 2005, until March 10, 2006. Under paragraphs (a) and (c)(3) of this section, A may reduce A's taxable income by $500 on A's income tax return for calendar year 2005 or 2006 (but not both) for providing housing to N.

Example 2. The facts are the same as in *Example 1,* except that A and A's unmarried roommate B are co-lessees of their principal residence. Both A and B provide housing to N. Under paragraphs (a) and (c)(4) of this section, either A or B, but not both, may reduce taxable income by $500 for 2005 or 2006 for providing housing to N. If A or B reduces taxable income for 2005 for providing housing to N, neither A nor B may reduce taxable income for 2006 for providing housing to N.

Example 3. The facts are the same as in *Example 2,* except that in 2009 A and B provide housing to N, who in 2009 is a Midwestern disaster displaced individual. Under paragraph (c)(5) of this section, the limitation of paragraph (c)(4) of this section applies separately to each disaster. Therefore, either A or B may reduce taxable income by $500 for 2009 for providing housing to N.

Example 4. During 2008, unmarried roommates and co-lessees C and D provide housing to eight Midwestern disaster displaced individuals. Under paragraphs (a) and (c)(1)(i)(A) of this section, C may reduce taxable income by $2,000 on C's 2008 income tax return for providing housing to any four of these displaced individuals and D may reduce taxable income by $2,000 on D's 2008 income tax return for providing housing to the other four displaced individuals.

Example 5. (i) In 2008, a married couple, H and W, provide housing to a Midwestern disaster displaced individual, O. H and W file their 2008 income tax return as married filing jointly. Under paragraphs (a) and (c)(4) of this section, H and W may reduce taxable income by $500 on their 2008 income tax return for providing housing to O.

(ii) In 2009, H and W provide housing to O and to another Midwestern disaster displaced individual, P. H and W file their 2009 income tax returns as married filing separately. Because H and W reduced their 2008 taxable income for providing housing to O, under paragraph (c)(3) of this section, neither H nor W may reduce taxable income on their 2009 income tax returns for providing housing to O. Under paragraphs (a) and (c)(4) of this section, either H or W but not both, may reduce taxable income by $500 on his or her 2009 income tax return for providing housing to P.

Example 6. The facts are the same as in *Example 5,* except that in 2009 H and W provide housing to five Midwestern disaster displaced individuals in addition to O. H and W together may reduce taxable income on their 2009 income tax returns by a total of $2,000 for the Midwestern disaster displaced individuals (other than O). Under paragraph (c)(1)(i)(B) of this section, H and W may allocate the $2,000 in increments of $500 between their separate returns. For example, either one may reduce taxable income by $500 and the other may reduce taxable income by $1,500, or H and W each may reduce taxable income by $1,000.

(h) *Effective/applicability date.* This section applies for taxable years ending after December 11, 2006.

§ 1.9300–1T [Removed]

■ **Par. 3.** Section 1.9300–1T is removed.

Approved: December 8, 2009.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

Michael F. Mundaca,

Acting Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E9–29635 Filed 12–11–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

31 CFR Part 50

RIN 1505–AB10

Terrorism Risk Insurance Program; Recoupment Provisions

AGENCY: Departmental Offices, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (Treasury) is issuing this final rule as part of its implementation of Title I of the Terrorism Risk Insurance Act of 2002 (''TRIA'' or ''the Act''), as amended by the Terrorism Risk Insurance Extension Act of 2005 (''Extension Act'') and the Terrorism Risk Insurance Program Reauthorization Act of 2007 (''Reauthorization Act''). The Act established a temporary Terrorism Risk Insurance Program (''TRIP'' or ''Program'') under which the Federal Government would share the risk of insured losses from certified acts of terrorism with commercial property and casualty insurers. The Reauthorization Act has now extended the Program until December 31, 2014. This rule was published in proposed form on September 17, 2008, for public comment. The final rule contains minor clarifications in response to comments. The rule incorporates and implements statutory requirements in section 103(e) of the Act, as amended by the Reauthorization Act, for the recoupment of the Federal share of compensation for insured losses. In particular, the rule describes how Treasury will determine the amounts to be recouped and establishes procedures insurers are to use for collecting Federal Terrorism Policy Surcharges and remitting them to Treasury. The rule generally builds upon previous rules issued by Treasury.

DATES: This rule is effective January 13, 2010.

FOR FURTHER INFORMATION CONTACT: Howard Leikin, Deputy Director, Terrorism Risk Insurance Program, (202) 622–6770 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Terrorism Risk Insurance Act of 2002 (Pub. L. 107–297, 116 Stat. 2322) was enacted on November 26, 2002. The Act was effective immediately. The Act's purposes are to address market disruptions, ensure the continued widespread availability and affordability of commercial property and casualty insurance for terrorism risk, and allow for a transition period for the private markets to stabilize and build capacity while preserving state insurance regulation and consumer protections.

Title I of the Act establishes a temporary Federal program of shared public and private compensation for insured commercial property and casualty losses resulting from an act of terrorism. The Act authorizes Treasury to administer and implement the Terrorism Risk Insurance Program, including the issuance of regulations and procedures. The Program provides a Federal backstop for insured losses from an act of terrorism. Section 103(e) of the Act directs and gives Treasury authority to recoup Federal payments made under the Program through policyholder surcharges.

The Program was originally set to expire on December 31, 2005. On December 22, 2005, the Terrorism Risk Insurance Extension Act of 2005 (Pub. L. 109–144, 119 Stat. 2660) was enacted, which extended the Program through December 31, 2007. On December 26, 2007, the Terrorism Risk Insurance Program Reauthorization Act of 2007 (Pub. L. 110–160, 121 Stat. 1839) was enacted, which extends the Program through December 31, 2014.

The Reauthorization Act, among other changes, revised the recoupment provisions of the Act. These changes are explained below in the context of discussion of other provisions.

II. Previous Rulemaking

To assist insurers, policyholders, and other interested parties in complying with immediately applicable requirements of the Act, Treasury has issued interim guidance to be relied upon by insurers until superseded by regulations. Rules establishing general provisions implementing the Program, including key definitions, and requirements for policy disclosures and mandatory availability, can be found in Subparts A, B, and C of 31 CFR Part 50. Treasury's rules applying provisions of the Act to State residual market insurance entities and State workers'

compensation funds are at Subpart D of 31 CFR Part 50. Rules setting forth procedures for filing claims for payment of the Federal share of compensation for insured losses are at Subpart F of 31 CFR Part 50. Subpart G of 31 CFR Part 50 contains rules on audit and recordkeeping requirements for insurers, while Subpart I of 31 CFR Part 50 contains Treasury's rules implementing the litigation management provisions of section 107 of the Act.

III. The Proposed Rule

The proposed rule on which this final rule is based was published in the **Federal Register** at 73 FR 53798 on September 17, 2008. The proposed rule proposed to add a Subpart H on Recoupment and Surcharge Procedures to part 50, which comprises Treasury's regulations implementing the Act. It also proposed to add definitions in § 50.5 of Subpart A and amend §§ 50.60 and 50.61 of Subpart G. The proposed rule described how Treasury would determine the amounts to be recouped, the factors and considerations that would be the basis for establishing the specific surcharge amount, the procedures for Treasury's notification to insurers regarding the surcharges to be imposed, and the requirements for insurers to collect, report, and remit surcharges to the Treasury.

IV. Summary of Comments and Final Rule

Treasury is now issuing this final rule after careful consideration of all comments received on the proposed rule. While this final rule largely reflects the proposed rule, Treasury has made several clarifications based on the comments. These changes appear in §§ 50.70(c), 50.74(c), and 50.74(e).

Treasury received comments on the proposed rule from two national insurance industry trade associations, a national insurance rating and data collection bureau, and one insurance company. As described further below, commenters generally agreed with the proposed rule and the approach as being compatible with business operations. There were no negative comments on the approach. In response to comments, Treasury is providing additional clarification and some modifications of provisions in the proposed rule that pertain to notification to insurers, meeting certain deadlines for the collection of surcharges, describing the policies and premium subject to surcharges, and closing out insurer reporting to Treasury. The comments received and Treasury's revisions to the proposed rule are summarized below.

A. Determination of Recoupment Amount

The final rule describes how and when Treasury will determine recoupment amounts. Definitions of insurance marketplace aggregate retention amount, aggregate Federal share of compensation, mandatory and discretionary recoupment amounts, and uncompensated insured losses, which reflect requirements in the Act, are added to § 50.5.

The mandatory recoupment amount is the difference between the insurance marketplace aggregate retention amount for a Program Year and the aggregate amount, for all insurers, of uncompensated insured losses during such Program Year (unless the aggregate amount of uncompensated insured losses is greater than the insurance marketplace aggregate retention, in which case the mandatory recoupment amount is zero). For any Program Year beginning with 2008 through 2014, the insurance marketplace aggregate retention amount is the lesser of $27.5 billion and the aggregate amount, for all insurers, of insured losses from Program Trigger Events during the Program Year. For example, if the aggregate amount of insured losses from Program Trigger Events during the Program Year were $10 billion, the insurance marketplace aggregate retention amount would be $10 billion. The mandatory recoupment amount would be the difference between $10 billion and the aggregate amount of uncompensated insured losses. ''Uncompensated insured losses'' is generally the aggregate amount of insured losses from Program Trigger Events not compensated by the Federal Government because the losses are within insurer deductibles or the 15 percent insurer share, or are within the portion of the insured losses that exceed the insurer deductible but are otherwise not paid pursuant to section 103(e)(1) of TRIA. The amount of uncompensated insured losses depends on the distribution of those losses among insurers. So continuing with the above example, if uncompensated insured losses amounted to $8 billion and Federal payments amounted to $2 billion, the mandatory recoupment amount would be $2 billion (the difference between $10 billion and the aggregate amount of uncompensated insured losses of $8 billion). The amount the Secretary would be required to collect under section 103(e)(7)(C) of the Act would be 133 percent of $2 billion, or $2.67 billion.

Section 103(e)(7)(D) of the Act also provides the Secretary with discretionary authority to recoup additional amounts to the extent that the amount of Federal financial assistance exceeds the mandatory recoupment amount. The Secretary may recoup such additional amounts the Secretary believes can be recouped based on: the ultimate costs to taxpayers of no additional recoupment; the economic conditions in the commercial marketplace; the affordability of commercial insurance for small- and medium-sized businesses; and such other factors that the Secretary considers appropriate. The final rule refers to these considerations in § 50.70(b). Because of the great uncertainty as to economic conditions after the occurrence of an act of terrorism, Treasury believes it is prudent to retain maximum flexibility to address these considerations at a future time. In exercising this discretionary authority, however, Treasury generally intends to consider these various factors on a broad-scale basis.

The Reauthorization Act added section 103(e)(7)(E), which establishes deadlines by which the collection of terrorism loss risk-spreading premiums, which are required for mandatory recoupment, must be accomplished. The amounts and deadlines vary depending on when an act of terrorism occurs:

- For any act of terrorism that occurs on or before December 31, 2010, the Secretary shall collect all required premiums by September 30, 2012;
- For any act of terrorism that occurs between January 1 and December 31, 2011, the Secretary shall collect 35 percent of any required premiums by September 30, 2012, and the remainder by September 30, 2017; and
- For any act of terrorism that occurs on or after January 1, 2012, the Secretary shall collect all required premiums by September 30, 2017.

Because of these deadlines, one commenter raised a concern over the potential that recoupment could far outpace the payment of claims and therefore recommended the use of present value calculations and excess fund accounts to earn interest on funds provided in advance to the Federal Government. In the preamble to the proposed rule, Treasury had stated that the timing requirements for collecting ''required premiums'' means that surcharges must be sufficient to recoup Federal funds *actually outlaid* as of the target dates for recouping any Federal share of compensation for insured losses. Treasury ascertained that the commenter's concern was based on the potential for recouping ultimate Federal share amounts that would not actually be expended by Treasury until after the recoupment period. For clarification,

Treasury has revised § 50.70 to state that required amounts will be collected ''based on the extent to which payments for the Federal share of compensation have been made by the collection deadlines.'' As illustrated in the example above, the required amounts include the additional 33 percent of the outlays. Continuing with the above example in which the Federal Government expects that Federal payments will reach $2 billion for an act of terrorism occurring prior to December 31, 2010, if as of September 30, 2012, $1 billion has actually been paid, recoupment should result in the collection of $1.33 billion by that date. The remaining amount of Federal payments plus 33 percent would be recouped after September 30, 2012.

Another commenter suggested additional language for the rule that would address Treasury's intention to not exceed required amounts in its establishment of surcharges, the avoidance of collecting *de minimis* amounts, and the handling of excess amounts collected. Treasury believes that the concerns raised were for the most part already addressed in the proposed rule § 50.72 which, in providing for the establishment of the surcharge, lists a number of factors and considerations including the collection timing requirements of section 103(e)(7)(E) of the Act, and the likelihood that the amount of the Federal Terrorism Policy Surcharge may result in the collection of an aggregate recoupment amount in excess of the planned recoupment amount. In addition, under the rule the Secretary may consider such other factors as the Secretary considers important, which could include the costs of collecting *de minimis* recoupment amounts.

Section 50.71(a) provides that if payments for the Federal share of compensation have been made for a Program Year, and Treasury determines that insured loss information is sufficiently developed and credible to serve as a basis for calculating recoupment amounts, then Treasury will make an initial determination of any mandatory or discretionary recoupment amounts for that Program Year. Ideally, Treasury will use loss information obtained from the submissions by insurers for the Federal share of compensation, as well as other industry sources, to determine the appropriate time to make an initial determination of recoupment amounts. Thereafter, as described under § 50.71(c), Treasury will at least annually examine the latest available information on insured losses to recalculate any recoupment amounts until such time as Treasury determines that the calculation is considered final. The final rule, in § 50.71(d), also provides that Treasury may issue a data call to insurers for the submission of information on insured losses from Program Trigger Events and for insurer deductible information.

Treasury must be prepared to initiate mandatory recoupment based on estimates, prospectively, of insured losses, the Federal share of compensation for insured losses, and the resulting Federal outlays. The Reauthorization Act added a provision (Section 103(e)(7)(F)) requiring the Secretary to publish, within 90 days of the date of an act of terrorism, an estimate of aggregate insured losses which shall be used as the basis for determining whether mandatory recoupment will be required. Proposed § 50.71(b) provided that Treasury would meet this requirement within 90 days *after certification* of an act of terrorism. Two commenters stated that this proposal should be revised because the statute requires that the estimate be published within 90 days after the occurrence of the act of terrorism.

''Act of terrorism'' is a defined statutory term. Under Section 102(1)(A), an ''act of terrorism'' is any act which is certified by the Secretary, in concurrence with the Secretary of State and the Attorney General of the United States, and meets certain specified elements. Without certification, an act does not meet the definition of an ''act of terrorism.''

Treasury believes that the most reasonable interpretation of Section 103(e)(7)(F) is that such an estimate of aggregate insured losses must be published 90 days after the certification of an act of terrorism. There is no limitation under Section 102(1) on the time the Secretary may take to certify, or determine not to certify, an act as an act of terrorism. Moreover, the purpose of this estimate is for use in determining whether mandatory recoupment will be required. Until there is a certification of an act of terrorism, there would be no basis to make Federal payments for insured losses and no need to consider whether mandatory recoupment would be required.

This interpretation is also consistent with the Procedural Order entered by the Judicial Panel on Multidistrict Litigation concerning the 90-day period in Section 107(a)(4) of the Act, which requires a designation by the Panel ''not later than 90 days after the occurrence of an act of terrorism.'' The order notes the definition of an ''act of terrorism,'' and accordingly provides that ''the 90-day period for the Panel to designate the court or courts for litigation covered by the Act begins on the date that the Treasury Secretary certifies an act of terrorism.'' Procedural Order filed June 1, 2004, available at *http://www.treas.gov/offices/domestic-finance/financial-institution/terrorism-insurance/pdf/order.pdf.* For the above reasons, § 50.71(b)(1) is being adopted as proposed.

2. Establishment of Federal Terrorism Policy Surcharge

Once Treasury has determined an amount to be recouped, an assessment period and Surcharge amount will be established. The final rule includes new definitions for ''Federal Terrorism Policy Surcharge'' and '' Surcharge'', ''assessment period'' and ''Surcharge effective date'', which are added to § 50.5 of the regulations. § 50.72(b) provides that the Surcharge is the obligation of the policyholder and payable to the insurer with the premium for a property and casualty insurance policy in effect during the assessment period.

An ''assessment period'' is defined as a period during which policyholders must pay, and insurers must collect, the Federal Terrorism Policy Surcharge for remittance to Treasury. Treasury's intention is that, to the extent possible, assessment periods will be in full-year increments in order to equitably impose the Surcharge on policyholders who have policy term effective dates throughout the year. Due to the collection deadlines, however, this may not always be feasible.

The definition for ''Federal Terrorism Policy Surcharge'' is the amount established by Treasury as a policy surcharge on policies of ''property and casualty insurance'' as that term is defined in § 50.5(u). The Surcharge is to be expressed as a percentage of the amount charged as written premium for commercial property and casualty coverage in such policies.

The factors and considerations Treasury will consider in establishing the amount of the Federal Terrorism Policy Surcharge are set out in § 50.72(a). They include requirements of the Act as well as other factors. In particular, Section 103(e)(7)(C) of TRIA as amended by the Reauthorization Act, requires that once a mandatory recoupment amount is determined, collections are to equal 133 percent of that amount. Section 103(e)(8)(D) of the Act requires Treasury, in determining the method and manner of imposing the Surcharge, to take into consideration the economic impact on commercial centers of urban areas, risk factors related to rural areas and smaller commercial

centers, and various exposures to terrorism risk for different lines of insurance. In the preamble to the proposed rule, Treasury explained that while it will consider these factors at the time it becomes necessary to establish the amount of a Surcharge, for several reasons it is likely that the same Federal Terrorism Policy Surcharge would apply to all commercial property and casualty lines of insurance, as defined by the Act, and all rating classifications. Treasury explained that after discussions with industry experts, it was understood that variations in underlying premium amounts for commercial lines insurance policies already appear to substantially operate in a way that addresses the adjustment factors described in the Act. Treasury also stated its concern over the time and resources needed to perform the complex analyses and to construct and implement a detailed risk classification scheme reflecting these factors, as well as needing to meet collection deadlines based on estimates of future Federal outlays. However, based on a review of economic conditions at the time a Surcharge amount is established, Treasury stated that it might, if necessary, and within the collection timing constraints, mitigate economic impacts by imposing a lesser Surcharge over a longer period of time. In the proposed rulemaking, Treasury specifically solicited public comment on this approach. No comments were submitted on this issue.

3. Notification of Recoupment

Section 50.73 of the final rule states that Treasury will provide reasonable advance notice of any initial Surcharge effective date. This effective date shall be January 1, unless such date would not provide for sufficient notice of implementation while meeting the collection timing requirements of section 103(e)(7)(E) of the Act.

The purpose of a January 1 effective date is to coordinate with the National Association of Insurance Commissioners (NAIC) Annual Statement reporting period. In the preamble to the proposed rule, Treasury stated its belief that there is a clear advantage to coordinating an assessment period and the written premium and remitted Surcharge amounts with the calendar year basis for the NAIC Annual Statements. However, insurers also would ideally have 180 days' notice to implement the Surcharge. The timing of an act of terrorism, the emerging estimates of insured losses and resulting Federal outlays, and the requirement to collect the Surcharges by certain deadlines could impinge on Treasury's ability to provide the desired 180 days' notice to insurers of a Surcharge implementation as of January 1. Two possible alternatives for managing this circumstance were suggested for which Treasury specifically sought public comment.

The first alternative was a possible bifurcated notification to insurers. Treasury would notify insurers 180 days in advance of January 1, that an assessment period will commence, but the actual Surcharge amount would not yet be provided. This would allow insurers time to develop systems changes to implement a Surcharge. The actual Surcharge amount would be provided at a later date, perhaps at least 60 days in advance of January 1.

The second alternative was to relax the standard of a January 1 implementation date. The assessment period could start as of the first day of a later month, but continue through that calendar year. The result of this would be a more complicated reconciliation of written premium and Surcharge amounts with NAIC Annual Statement data, but would yet be substantially consistent with the NAIC Annual Statement reporting period.

Two commenters provided comments on the alternative approaches. Both supported the first (bifurcated) approach to notification. One commenter stated that Treasury should allow at least 90 days advance notice of the actual surcharge amount while the other commenter stated that Treasury should provide notice of the actual surcharge amount at least 60 days in advance of January 1. In considering how to proceed based on these comments, Treasury is mindful of the generally recognized downside of using an effective date other than January 1. We acknowledge that 90 days advance notice of the actual surcharge amount would be preferable. However, we believe that most insurers could make the final system changes with at least 60 days' notice. To have to implement surcharges and reconciliations with a later implementation date than January 1, just because a 90 day notice was not possible, would be more disruptive to more insurers. Therefore, in implementing the final rule in circumstances where all necessary information cannot be provided at least 180 days in advance, Treasury intends to use the bifurcated approach. This would include 180 days' notice of the commencement of an assessment period, and, at least 60 days notice and, if possible, as much as 90 days notice of the actual surcharge amount.

Treasury will provide notification annually as to continuation of the Surcharge. Treasury will also provide reasonable advance notice of any modification or cessation of the Surcharge. In such cases, Treasury anticipates providing at least 90 days' notice. Notifications will be accomplished through publications in the **Federal Register** or in another manner Treasury deems appropriate, based upon the circumstances of the particular act of terrorism.

Despite the strong preference for the bifurcated approach, Treasury must have the flexibility to meet the statutory collection deadlines even if that approach cannot be accomplished. The final rule retains the language of § 50.73(b) of the proposed rule, which allows the effective date to be other than January 1 if that date would not provide for sufficient notice of implementation while meeting the statutory collection deadlines. The second alternative described above would only be implemented as a fallback position.

4. Collecting the Surcharge

Section 50.74 of the proposed rule specified that the Surcharge shall be imposed and collected on a written premium basis for policies that are in force during the assessment period. The proposed rule further provided that all new, renewal, mid-term, and audit additional premiums for a policy term would be subject to the Surcharge in effect on the policy term effective date. The preamble to the proposed rule noted that policies placed in force prior to the assessment period would not be subject to the Surcharge until renewal, regardless of mid-term endorsements. Two commenters suggested a clarification in the rule, referring to policies that ''incept or renew'' during the assessment period rather than policies that are ''in force'' during the assessment period. Treasury agrees that this is consistent with the intent and has made this change in the final rule.

One commenter noted that since return premium on audit would also be subject to the return of the Surcharge, the term ''audit additional premiums'' noted above should merely read ''audit premiums.'' Again, this is consistent with the intent and for the sake of clarity Treasury has made the suggested change in the final rule. For additional clarity, Treasury has modified the proposed rule § 50.74(e), which provided for the return of Surcharge amounts attributable to unearned premiums which are returned to policyholders, to state that Surcharge amounts are to be returned when attributable to any refunded premium.

As noted in the preamble of the proposed rule, the definition of property

and casualty insurance was the result of extensive consultation, which produced a regulatory definition crafted in terms of specific lines of business employed in the NAIC's Exhibit of Premium and Losses of the NAIC Annual Statement, modified by the exceptions for certain types of insurance excluded by the Act.

Insurers will be obligated to implement the Federal Terrorism Policy Surcharge on a policyholder transaction level. There is a complicating factor in the definition of commercial property and casualty insurance in that certain exclusions in the definition create a possibility of individual policies providing types of insurance that are considered to fall both within and outside the Act's definition of property and casualty insurance. The authorities under the Act (at subsections 103(e)(8)(A) and (C)[1]) limit the application of the Surcharge to the policy premium amount charged for property and casualty insurance coverage under the policy.

In the proposed rule, as a basic starting point, Treasury proposed that the Surcharge apply to the full premium for any policy falling within the definition of property and casualty insurance in proposed § 50.5(u), i.e., the premium for the policy is reported on the insurer's NAIC Annual Statement, or equivalent reporting document, in a specified commercial line of business as defined by Treasury's regulations. However, a portion of a policy's premium would not be subject to the Surcharge if, despite the line of business premium reporting to the NAIC, that portion of the premium is for coverage under the policy that is a type of insurance not considered to be commercial property and casualty insurance as specified in Treasury's regulations.

In the case of a policy providing multiple insurance coverages, where an insurer cannot identify the premium amount charged specifically for property and casualty coverage under the policy, the proposed rule provided for two circumstances. If the insurer estimates that the portion of the premium amount charged for coverage other than property and casualty insurance is *de minimis* to the total premium for the policy, the insurer may impose and collect from the policyholder a Surcharge amount based on the total premium for the policy. If the insurer estimates that the portion of the premium amount charged for coverage other than property and casualty insurance is not *de minimis,* the insurer shall impose and collect from the policyholder a Surcharge amount based on a reasonable estimate of the premium amount for the property and casualty insurance coverage under the policy.

One comment on the proposed rule was that it provides no guidance as to what is and what is not *de minimis.* Treasury intended for there to be some flexibility in applying this provision of the rule where there is a very small, but not specifically calculable portion of the premium that can be attributed to coverage that is not within the definition of property and casualty insurance.

The commenter urged Treasury to review analogous provisions of earlier TRIA regulations, such as those addressing insurer deductibles and direct earned premium calculations. It was unclear from this comment whether this was from the standpoint of concept or, more specifically, the 25 percent threshold for considering commercial coverage to be incidental to a policy for purposes of the definition of direct earned premium. If it is the latter, Treasury is satisfied that 25 percent of a premium is not a *de minimis* amount. However, in considering further guidance, because of the variety of insurer and policy premium circumstances, Treasury is reluctant to further define what is *de minimis.* As noted in the proposed rule preamble, Treasury will be developing reporting forms for the insurer submission of surcharges and will consider additional guidance in connection with that forms development. For the final rule, the relevant provision, § 50.74(c)(2), is unchanged.

As part of this rule, Treasury is adding a definition to § 50.5 for direct written premium, which is the premium information for commercial property and casualty insurance, as defined in the regulations, that is included by an insurer in column 1 of the Exhibit of Premiums and Losses of the NAIC Annual Statement or in an equivalent reporting requirement. Consistent with the discussion above, an insurer would subtract the premium that is not subject to the Surcharge. Otherwise, the full premium for the policy is included for Surcharge computation. Minor adjustments to the definition of direct earned premium to eliminate some inconsistencies between that definition and the new definition of direct written premium are included in the final rule as had been proposed. The definition of direct written premium has been crafted to be consistent with premium billing and collection practices on a transactional level, as well as consistent with state regulatory requirements for reporting written premiums. The Surcharge itself is not considered premium.

The proposed rule, in § 50.74(c)(1), stated that for purposes of applying the Surcharge, written premium basis means the premium amount charged a policyholder by an insurer for property and casualty insurance as defined in § 50.5(u), including all premiums, policy expense constants and fees defined as premium pursuant to the Statements of Statutory Accounting Principles (SSAP) established by the NAIC. One commenter asserted that since states can modify the SSAP, this section should allow for premium pursuant to the SSAP as adopted by the jurisdiction for which the premium is reported. Treasury has made this change in the final rule.

Section 50.74(f) provides that an insurer may satisfy its obligation to collect the Federal Terrorism Policy Surcharge by remitting the calculated Surcharge amount to Treasury, without actual collection, in circumstances where the expense of collecting the Surcharge from all policyholders during an assessment period exceeds the amount of the Surcharges anticipated to be collected.

The Federal Terrorism Policy Surcharge is a repayment of Federal financial assistance in an amount required by law. It is not a premium paid by a policyholder to an insurer. Proposed § 50.74(g) stated that no fee or commission shall be charged on the Federal Terrorism Policy Surcharge. Two commenters said that the provision should be expanded to provide that the surcharge is not subject to taxes or assessments. Section 106 of the Act generally preserves the jurisdiction or regulatory authority of the insurance commissioner (or any agency or office performing like functions) of any state over any insurer or other person except as specifically provided in the Act. Whether the surcharge is subject to taxes or assessments concerns state law as well as the issue of Federal preemption. Treasury has concluded that taxes and assessments should not be addressed in the regulation.

The proposed rule provided that if an insurer returns any unearned premium to a policyholder, it shall also return any Federal Terrorism Policy Surcharge collected that is attributable to the unearned premium. As noted earlier in the discussion of comments associated with treatment of audit premiums, § 50.74(e) of the final rule has been modified to address the refund of any premiums.

[1] Under the Reauthorization Act, Section 103(e)(8)(C) now applies only to discretionary recoupment.

The final rule provides that the insurer shall have such rights and remedies to enforce the collection of the Surcharge that are equivalent to those that exist under applicable state or other law for nonpayment of premium. Insurers should follow the appropriate state law in such circumstances.

5. Remitting the Surcharge

The effect of § 50.76 of the final rule is that, notwithstanding the definition of an insurer in prior § 50.5(f) (now redesignated as § 50.5(l)), the collection, reporting and remittance of Federal Terrorism Policy Surcharges to Treasury shall be the responsibility of each individual insurer entity as otherwise defined in § 50.5(f) without including affiliates. This is because affiliations of insurers that are relevant in determining insurer deductibles are not pertinent to the collection and remittance of the Surcharges.

Consistent with the Act, Treasury's approach to the collection and remittance of the Federal Terrorism Policy Surcharge is to place an obligation on the policyholder to pay the Surcharge and require the insurer to collect the Surcharge from each policyholder. The final rule provides insurers the means to address non-payment of the Surcharge and provides for the reporting and remittance of the Surcharge to Treasury according to calculated amounts that are based on statutory financial reporting already required by the States. The description of premium subject to the Surcharge in § 50.74(c) and the definition of ''direct written premium'' in § 50.5(g) and other provisions of the final rule on the treatment of the Surcharge at both the policy transaction and financial statement reporting levels have been crafted so that the Surcharge amounts calculated for remittance to Treasury will be equivalent to the actual collections. By relying on premium amounts that are reported to the States, and that are already subject to other audit requirements, Treasury expects that its own audit responsibilities can be accomplished with less focus on individual insurer compliance with the Surcharge collection than would otherwise be necessary. This will result in a more efficient mechanism for recoupment for Treasury, insurers, and policyholders.

In developing reporting and remittance frequency requirements, Treasury considered the amount of time insurers may be holding the funds collected prior to remittance to Treasury, and the current Value of Federal Funds published by the Treasury's Financial Management Service. Treasury also recognizes that a monthly accounting period is standard within the insurance industry. The final rule allows insurers to retain the interest (and therefore not have to separately account and remit such amounts to Treasury) on funds collected on a ''written'' basis and remitted monthly to Treasury. Treasury believes that this is a reasonably efficient approach to administering the collection and remittance requirements of the Act. Should the Value of Federal Funds at the time of any actual imposition of the Federal Terrorism Policy Surcharge be significantly greater than current levels, Treasury will revisit this issue.

Section 50.75 of the final rule calls for insurers to report and remit Federal Terrorism Policy Surcharges on a monthly basis, starting with the first month within the assessment period, through November of the calendar year and on an annual basis as of the last month. As discussed earlier, ideally and as intended, the first month within the assessment period would be January. The requirements are expected to ease the administrative burden by building upon reporting requirements already imposed by the States. The definition of ''direct written premium'' on which an insurer must report and the specific due dates for reporting in § 50.75(a) have been coordinated with NAIC Annual Statement requirements. The main reconciliation of information reported to Treasury and to NAIC would be accomplished with the year-end NAIC Annual Statements.

The collection timing requirements of section 103(e)(7)(E) of the Act generally require recoupment of certain amounts of Federal outlays through September 30, coinciding with the end of the Federal fiscal year. Treasury will estimate recoupment amounts and Surcharges so that these deadlines are met, while still keeping to an end of calendar year date for defining an assessment period. This end date will allow the reporting and reconciliation to be coordinated with Annual Statements.

To accommodate possible changes in the Federal Terrorism Policy Surcharge amount from one year to another, direct written premium is to be broken down by policy year. This is similar to requirements imposed at the state-level with regard to other assessments.

Since remittance is on a ''written'' basis, the proposed rule provided for a continued reporting requirement for one year following the end of the assessment period. One commenter noted that closing out reporting one year after the termination of the assessment period would be satisfactory for the vast majority of policies, but that some policies will have final audits that close after that time and that, in addition, the proposed rule was unclear with respect to policies with terms longer than one year. In developing the proposed rule and in considering this comment, Treasury has endeavored to strike a balance between the accounting of Surcharges and the costs of maintaining the systems for collecting, submitting, and reporting of Surcharges on the part of insurers and Treasury. After consulting with industry experts, Treasury believes that revisions to the written premium amounts that would occur more than one year after the termination of the assessment period, which would be associated with additional or returned premiums on policies that incepted or renewed in the assessment period, would be sufficiently small relative to the aggregate premium amounts to justify ending further adjustments to the Surcharge. Therefore in the final rule, clarifications have been added to §§ 50.74(c) and (e) to provide that insurers are no longer required to collect or refund Surcharges once the reporting requirement to Treasury has ended. Section 50.75(d) has also been revised to clarify that an insurer obtains credit for a refund of any Federal Terrorism Policy Surcharges previously remitted to Treasury through its submission of monthly or annual statements.

Treasury will be developing forms for the reporting and remittance of the Federal Terrorism Policy Surcharge and plans on implementing an electronic reporting and payment facility.

6. Audit Authority and Recordkeeping

It is Treasury's intention that it's reporting requirements, coordinated and reconciled with other state-level reporting, will result in less of an audit burden than might otherwise be necessary. The final rule includes a revision of the current § 50.60 and an addition to the current § 50.61. The revision adds language to the effect that the Secretary of the Treasury, or an authorized representative, shall have, upon reasonable notice, access to all books, documents, papers and records of an insurer that are pertinent to the Federal Terrorism Policy Surcharge. The addition generally provides that records relating to premiums, Surcharges, collections and remittances to Treasury shall be retained by an insurer and kept available for review for not less than three (3) years following the conclusion of the assessment period or settlement of accounts with Treasury, whichever is later.

7. Enforcement

Insurers will be responsible for collecting appropriate Surcharge amounts from their policyholders. Because § 50.74(d) provides that insurers have rights and remedies to enforce collection that are equivalent to those that exist under state law for nonpayment of premium, Treasury believes insurers will have the requisite tools to collect the Surcharge. Treasury may rely on its authority to impose civil monetary penalties on an insurer pursuant to section 104(e)(1)(A) of the Act for the failure to charge, collect or timely remit proper Surcharge amounts to enforce the provisions of this final rule.

8. Other Technical Changes

As noted under ''Collecting the Surcharge,'' the final rule includes some minor changes to the existing definition of ''direct earned premium.'' Although the complete definition is set out for information, no substantive changes were made to the existing § 50.5(d)(1)(iv), (d)(2), (d)(3), and (d)(4). Similarly, although the existing provision on recordkeeping is set out in § 50.61(a), no substantive changes were made to that provision.

V. Procedural Requirements

Executive Order 12866, ''Regulatory Planning and Review''. This rule is a significant regulatory action for purposes of Executive Order 12866, ''Regulatory Planning and Review,'' and has been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act. Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* it is hereby certified that this rule will not have a significant economic impact on a substantial number of small entities. TRIA requires all insurers that receive direct earned premiums for commercial property and casualty insurance, to participate in the Program. Treasury is required to recoup all or a portion of the Federal share of compensation paid to insurers for insured losses in accordance with the Act. Insurers that are affected by these regulations tend to be large businesses, therefore Treasury has determined that the rule will not affect a substantial number of small entities. In addition, Treasury has determined that the economic impact of the rule is not significant. The Act requires that a policyholder surcharge be imposed on all policies of property and casualty insurance, as defined in the Act. The Act requires Treasury to provide for insurers to collect the surcharges and remit them to Treasury. Unless there is an act of terrorism, and a Federal sharing of compensation for insured losses requiring recoupment, there is no economic impact at all. The ability to collect surcharges is routine within the insurance industry. Should a surcharge be required, it would be collected and submitted by insurers based on existing normal business processes. The payment of a surcharge is the obligation of the policyholder. The insurer must collect the surcharge, but would do so through the normal payment by the policyholder of the insurance premium for property and casualty insurance. The economic impact on all commercial property and casualty insurers (including any that might be small entities) should thus be minimal. Treasury did not receive any comments at the proposed rule stage relating to the rule's impact on small entities. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act. The collection of information contained in this final rule has been approved by the OMB under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3507(d) and has been assigned control number 1505–0207.

List of Subjects in 31 CFR Part 50

Terrorism risk insurance.

Authority and Issuance

■ For the reasons stated above, 31 CFR part 50 is amended as follows:

PART 50—TERRORISM RISK INSURANCE PROGRAM

■ 1. The authority citation for part 50 is revised to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 321; Title I, Pub. L. 107–297, 116 Stat. 2322, as amended by Pub. L. 109–144, 119 Stat. 2660 and Pub. L. 110–160, 121 Stat. 1839 (15 U.S.C. 6701 note).

■ 2. Section 50.5 is amended as follows:
■ a. Paragraphs (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), and (r) are redesignated as paragraphs (f), (k), (l), (m), (o), (p), (q), (r), (s), (t), (u), (v), (w), (z) and (bb), respectively.
■ b. New paragraphs (d), (e), (g), (h), (i), (j), (n), (x), (y), and (aa) are added.
■ c. Newly designated paragraph (f) is revised.

The revisions read as follows:

§ 50.5 Definitions.

* * * * *

(d) *Aggregate Federal share of compensation* means the aggregate amount paid by Treasury for the Federal share of compensation for insured losses in a Program Year.

(e) *Assessment period* means a period, established by Treasury, during which policyholders of property and casualty insurance policies must pay, and insurers must collect, the Federal Terrorism Policy Surcharge for remittance to Treasury.

(f) *Direct earned premium* means direct earned premium for all commercial property and casualty insurance issued by any insurer for insurance against all losses, including losses from an act of terrorism, occurring at the locations described in section 102(5)(A) and (B) of the Act.

(1) *State licensed or admitted insurers.* For a State licensed or admitted insurer that reports to the NAIC, direct earned premium is the premium information for commercial property and casualty insurance reported by the insurer on column 2 of the NAIC Exhibit of Premiums and Losses of the NAIC Annual Statement (commonly known as Statutory Page 14). (*See* definition of property and casualty insurance.)

(i) Premium information as reported to the NAIC should be included in the calculation of direct earned premiums for purposes of the Program only to the extent it reflects premiums for commercial property and casualty insurance issued by the insurer against losses occurring at the locations described in section 102(5)(A) and (B) of the Act.

(ii) Premiums for personal property and casualty insurance (insurance primarily designed to cover personal, family or household risk exposures, with the exception of insurance written to insure 1 to 4 family rental dwellings owned for the business purpose of generating income for the property owner), or premiums for any other insurance coverage that does not meet the definition of commercial property and casualty insurance, should be excluded in the calculation of direct earned premiums for purposes of the Program.

(iii) Personal property and casualty insurance coverage that includes incidental coverage for commercial purposes is primarily personal coverage, and therefore premiums may be fully excluded by an insurer from the calculation of direct earned premium. For purposes of the Program, commercial coverage is incidental if less than 25 percent of the total direct earned premium is attributable to commercial coverage. Commercial property and casualty insurance against losses occurring at locations other than the locations described in section 102(5)(A) and (B) of the Act, or other insurance coverage that does not meet the definition of commercial property and casualty insurance, but that

includes incidental coverage for commercial risk exposures at such locations, is primarily not commercial property and casualty insurance, and therefore premiums for such insurance may also be fully excluded by an insurer from the calculation of direct earned premium. For purposes of this section, commercial property and casualty insurance for losses occurring at the locations described in section 102(5)(A) and (B) of the Act is incidental if less than 25 percent of the total direct earned premium for the insurance policy is attributable to coverage at such locations. Also for purposes of this section, coverage for commercial risk exposures is incidental if it is combined with coverages that otherwise do not meet the definition of commercial property and casualty insurance and less than 25 percent of the total direct earned premium for the insurance policy is attributable to the coverage for commercial risk exposures.

(iv) If a property and casualty insurance policy covers both commercial and personal risk exposures, insurers may allocate the premiums in accordance with the proportion of risk between commercial and personal components in order to ascertain direct earned premium. If a policy includes insurance coverage that meets the definition of commercial property and casualty insurance for losses occurring at the locations described in section 102(5)(A) and (B) of the Act, but also includes other coverage, insurers may allocate the premiums in accordance with the proportion of risk attributable to the components in order to ascertain direct earned premium.

(2) *Insurers that do not report to NAIC.* An insurer that does not report to the NAIC, but that is licensed or admitted by any State (such as certain farm or county mutual insurers), should use the guidance provided in paragraph (f)(1) of this section to assist in ascertaining its direct earned premium.

(i) Direct earned premium may be ascertained by adjusting data maintained by such insurer or reported by such insurer to its State regulator to reflect a breakdown of premiums for commercial and personal property and casualty exposure risk as described in paragraph (f)(1) of this section and, if necessary, re-stated to reflect the accrual method of determining direct earned premium versus direct premium.

(ii) Such an insurer should consider other types of payments that compensate the insurer for risk of loss (contributions, assessments, etc.) as part of its direct earned premium.

(3) *Certain eligible surplus line carrier insurers.* An eligible surplus line carrier insurer listed on the NAIC Quarterly Listing of Alien Insurers must ascertain its direct earned premium as follows:

(i) For policies that were in-force as of November 26, 2002, or entered into prior to January 1, 2003, direct earned premiums are to be determined with reference to the definition of property and casualty insurance and the locations described in section 102(5)(A) and (B) of the Act by allocating the appropriate portion of premium income for losses for property and casualty insurance at such locations. The same allocation methodologies contained within the NAIC's ''Allocation of Surplus Lines and Independently Procured Insurance Premium Tax on Multi-State Risks Model Regulation'' for allocating premium between coverage for property and casualty insurance for losses occurring at the locations described in section 102(5)(A) and (B) of the Act and all other coverage, to ascertain the appropriate percentage of premium income to be included in direct earned premium, may be used.

(ii) For policies issued after January 1, 2003, premium for insurance that meets the definition of property and casualty insurance for losses occurring at the locations described in section 102(5)(A) and (B) of the Act, must be priced separately by such eligible surplus line carriers.

(4) *Federally approved insurers.* A federally approved insurer under section 102(6)(A)(iii) of the Act should use a methodology similar to that specified for eligible surplus line carrier insurers in paragraph (f)(3) of this section to calculate its direct earned premium. Such calculation should be adjusted to reflect the limitations on scope of insurance coverage under the Program (i.e., to the extent of federal approval of commercial property and casualty insurance in connection with maritime, energy or aviation activities).

(g) *Direct written premium* means the premium information for commercial property and casualty insurance as defined in paragraph (u) of this section that is included by an insurer in column 1 of the Exhibit of Premiums and Losses of the NAIC Annual Statement or in an equivalent reporting requirement. The Federal Terrorism Policy Surcharge is not included in amounts reported as direct written premium.

(h) *Discretionary recoupment amount* means such amount of the aggregate Federal share of compensation in excess of the mandatory recoupment amount that the Secretary has determined will be recouped pursuant to section 103(e)(7)(D) of the Act.

(i) *Federal Terrorism Policy Surcharge* means the amount established by Treasury under section 103(e)(8) of the Act which is imposed as a policy surcharge on property and casualty insurance policies, expressed as a percentage of the written premium.

(j) *Insurance marketplace aggregate retention amount* means an amount for a Program Year as set forth in section 103(e)(6) of the Act. For any Program Year beginning with 2008 through 2014, such amount is the lesser of $27,500,000,000 and the aggregate amount, for all insurers, of insured losses from Program Trigger Events during the Program Year.

* * * * *

(n) *Mandatory recoupment amount* means the difference between the insurance marketplace aggregate retention amount for a Program Year and the uncompensated insured losses during such Program Year. The mandatory recoupment amount shall be zero, however, if the amount of such uncompensated insured losses is greater than the insurance marketplace aggregate retention amount.

* * * * *

(x) *Surcharge* means the Federal Terrorism Policy Surcharge as defined in paragraph (i) of this section.

(y) *Surcharge effective date* means the date established by Treasury that begins the assessment period.

* * * * *

(aa) *Uncompensated insured losses*—means the aggregate amount of insured losses, from Program Trigger Events, of all insurers in a Program Year that is not compensated by the Federal Government because such losses:

(1) Are within the insurer deductibles of insurers, or

(2) Are within the portions of losses in excess of insurer deductibles that are not compensated through payments made as a result of claims for the Federal share of compensation.

* * * * *

■ 3. Revise §§ 50.60 and 50.61 of Subpart G to read as follows:

§ 50.60 Audit authority.

The Secretary of the Treasury, or an authorized representative, shall have, upon reasonable notice, access to all books, documents, papers and records of an insurer that are pertinent to amounts paid to the insurer as the Federal share of compensation for insured losses, or pertinent to any Federal Terrorism Policy Surcharge that is imposed pursuant to subpart H of this part, for the purpose of investigation, confirmation, audit and examination.

§ 50.61 Recordkeeping.

(a) Each insurer that seeks payment of a Federal share of compensation under subpart F of this part shall retain such records as are necessary to fully disclose all material matters pertinent to insured losses and the Federal share of compensation sought under the Program, including, but not limited to, records regarding premiums and insured losses for all commercial property and casualty insurance issued by the insurer and information relating to any adjustment in the amount of the Federal share of compensation payable. Insurers shall maintain detailed records for not less than five (5) years from the termination dates of all reinsurance agreements involving commercial property and casualty insurance subject to the Act. Records relating to premiums shall be retained and available for review for not less than three (3) years following the conclusion of the policy year. Records relating to underlying claims shall be retained for not less than five (5) years following the final adjustment of the claim.

(b) Each insurer that collects a Federal Terrorism Policy Surcharge as required by subpart H of this part shall retain records related to such Surcharge, including records of the property and casualty insurance premiums subject to the Surcharge, the amount of the Surcharge imposed on each policy, aggregate Federal Terrorism Policy Surcharges collected, and aggregate Federal Terrorism Policy Surcharges remitted to Treasury during each assessment period. Such records shall be retained and kept available for review for not less than three (3) years following the conclusion of the assessment period or settlement of accounts with Treasury, whichever is later.

■ 4. Subpart H of part 50 is added to read as follows:

Subpart H—Recoupment and Surcharge Procedures

Sec.

Subpart H—Recoupment and Surcharge Procedures

§ 50.70 Mandatory and discretionary recoupment.

(a) Pursuant to section 103 of the Act, the Secretary shall impose, and insurers shall collect, such Federal Terrorism Policy Surcharges as needed to recover 133 percent of the mandatory recoupment amount for any Program Year.

(b) In the Secretary's discretion, the Secretary may recover any portion of the aggregate Federal share of compensation that exceeds the mandatory recoupment amount through a Federal Terrorism Policy Surcharge based on the factors set forth in section 103(e)(7)(D) of the Act.

(c) If the Secretary is required to impose a Federal Terrorism Policy Surcharge as provided in paragraph (a) of this section, then the required amounts, based on the extent to which payments for the Federal share of compensation have been made by the collection deadlines in section 103(e)(7)(E) of the Act, shall be collected in accordance with such deadlines:

(1) For any act of terrorism that occurs on or before December 31, 2010, the Secretary shall collect all required amounts by September 30, 2012;

(2) For any act of terrorism that occurs between January 1 and December 31, 2011, the Secretary shall collect 35 percent of any required amounts by September 30, 2012, and the remainder by September 30, 2017; and

(3) For any act of terrorism that occurs on or after January 1, 2012, the Secretary shall collect all required amounts by September 30, 2017.

§ 50.71 Determination of recoupment amounts.

(a) If payments for the Federal share of compensation have been made for a Program Year, and Treasury determines that insured loss information is sufficiently developed and credible to serve as a basis for calculating recoupment amounts, Treasury will make an initial determination of any mandatory or discretionary recoupment amounts for that Program Year.

(b)(1) Within 90 days after certification of an act of terrorism, the Secretary shall publish in the **Federal Register** an estimate of aggregate insured losses which shall be used as the basis for initially determining whether mandatory recoupment will be required.

(2) If at any time Treasury projects that payments for the Federal share of compensation will be made for a Program Year, and that in order to meet the collection timing requirements of section 103(e)(7)(E) of the Act it is necessary to use an estimate of such payments as a basis for calculating recoupment amounts, Treasury will make an initial determination of any mandatory recoupment amounts for that Program Year.

(c) Following the initial determination of recoupment amounts for a Program Year, Treasury will recalculate any mandatory or discretionary recoupment amount as necessary and appropriate, and at least annually, until a final recoupment amount for the Program Year is determined. Treasury will compare any recalculated recoupment amount to amounts already remitted and/or to be remitted to Treasury for a Federal Terrorism Policy Surcharge previously established to determine whether any additional amount will be recouped by Treasury.

(d) For the purpose of determining initial or recalculated recoupment amounts, Treasury may issue a data call to insurers for insurer deductible and insured loss information by Program Year. Treasury's determination of the aggregate amount of insured losses from Program Trigger Events of all insurers for a Program Year will be based on the amounts reported in response to a data call and any other information Treasury in its discretion considers appropriate. Submission of data in response to a data call shall be on a form promulgated by Treasury.

§ 50.72 Establishment of Federal Terrorism Policy Surcharge.

(a) Treasury will establish the Federal Terrorism Policy Surcharge based on the following factors and considerations:

(1) In the case of a mandatory recoupment amount, the requirement to collect 133 percent of that amount;

(2) The total dollar amount to be recouped as a percentage of the latest available annual aggregate industry direct written premium information;

(3) The adjustment factors for terrorism loss risk-spreading premiums described in section 103(e)(8)(D) of the Act;

(4) The annual 3 percent limitation on terrorism loss risk-spreading premiums collected on a discretionary basis as provided in section 103(e)(8)(C) of the Act;

(5) A preferred minimum initial assessment period of one full year and subsequent extension periods in full year increments;

(6) The collection timing requirements of section 103(e)(7)(E) of the Act;

(7) The likelihood that the amount of the Federal Terrorism Policy Surcharge

may result in the collection of an aggregate recoupment amount in excess of the planned recoupment amount; and

(8) Such other factors as the Secretary considers important.

(b) The Federal Terrorism Policy Surcharge shall be the obligation of the policyholder and is payable to the insurer with the premium for a property and casualty insurance policy in effect during the assessment period established by Treasury. *See* § 50.74(c).

§ 50.73 Notification of recoupment.

(a) Treasury will provide notifications of recoupment through publication of notices in the **Federal Register** or in another manner Treasury deems appropriate, based upon the circumstances of the act of terrorism under consideration.

(b) Treasury will provide reasonable advance notice to insurers of any initial Federal Terrorism Policy Surcharge effective date. This effective date shall be January 1, unless such date would not provide for sufficient notice of implementation while meeting the collection timing requirements of section 103(e)(7)(E) of the Act.

(c) Treasury will provide reasonable advance notice to insurers of any modification or cessation of the Federal Terrorism Policy Surcharge.

(d) Treasury will provide notification to insurers annually as to the continuation of the Federal Terrorism Policy Surcharge.

§ 50.74 Collecting the Surcharge.

(a) Insurers shall collect a Federal Terrorism Policy Surcharge from policyholders as required by Treasury.

(b) Policies subject to the Federal Terrorism Policy Surcharge are those for which direct written premium is reported on commercial lines of business on the NAIC's Exhibit of Premiums and Losses of the NAIC Annual Statement (commonly known as Statutory Page 14) as provided in § 50.5(u)(1), or equivalently reported.

(c) For policies subject to the Federal Terrorism Policy Surcharge, the Surcharge shall be imposed and collected on a written premium basis for policies that incept or renew during the assessment period. All new, renewal, mid-term, and audit premiums for a policy term are subject to the Surcharge in effect on the policy term effective date. Notwithstanding this paragraph, if the premium for a policy term that would otherwise be subject to the Surcharge is revised after the end of the reporting period described in § 50.75(e), then any additional premium attributable to such revision is not subject to the Surcharge. For purposes of this subpart:

(1) Written premium basis means the premium amount charged a policyholder by an insurer for property and casualty insurance as defined in § 50.5(u), including all premiums, policy expense constants and fees defined as premium pursuant to the Statements of Statutory Accounting Principles established by the National Association of Insurance Commissioners, as adopted by the state for which the premium will be reported.

(2) In the case of a policy providing multiple insurance coverages, if an insurer cannot identify the premium amount charged a policyholder specifically for property and casualty insurance under the policy, then:

(i) If the insurer estimates that the portion of the premium amount charged for coverage other than property and casualty insurance is *de minimis* to the total premium for the policy, the insurer may impose and collect from the policyholder a Surcharge amount based on the total premium for the policy, but

(ii) If the insurer estimates that the portion of the premium amount charged for coverage other than property and casualty insurance is not *de minimis,* the insurer shall impose and collect from the policyholder a Surcharge amount based on a reasonable estimate of the premium amount for the property and casualty insurance coverage under the policy.

(3) The Federal Terrorism Policy Surcharge is not considered premium.

(d) A policyholder must pay the applicable Federal Terrorism Policy Surcharge when due. The insurer shall have such rights and remedies to enforce the collection of the Surcharge that are the equivalent to those that exist under applicable state or other law for nonpayment of premium.

(e) When an insurer returns an unearned premium, or otherwise refunds premium to a policyholder, it shall also return any Federal Terrorism Policy Surcharge collected that is attributable to the refunded premium. Notwithstanding this paragraph, if the written premium for a policy is revised and refunded after the end of the reporting period described in § 50.75(e), then the insurer is not required to refund any Surcharge that is attributable to the refunded premium.

(f) Notwithstanding paragraphs (a), (b), and (c) of this section, if the expense of collecting the Federal Terrorism Policy Surcharge from all policyholders of an insurer during an assessment period exceeds the amount of the Surcharges anticipated to be collected, such insurer may satisfy its obligation to collect by omitting actual collection and instead remitting to Treasury the amount otherwise due.

(g) The Federal Terrorism Policy Surcharge is repayment of Federal financial assistance in an amount required by law. No fee or commission shall be charged on the Federal Terrorism Policy Surcharge.

§ 50.75 Remitting the surcharge.

(a) Each insurer shall provide a statement of direct written premium and Federal Terrorism Policy Surcharge to Treasury on a monthly basis, starting with the first month within the assessment period, through November of the calendar year and on an annual basis as of the last month of the calendar year. Reporting will be on a form prescribed by Treasury and will be due according to the following schedule:

(1) For each month beginning in the first month of the assessment period through November, the last business day of the calendar month following the month for which premium is reported, and

(2) March 1 for the calendar year.

(b) The monthly statements provided to Treasury will include the following:

(1) Cumulative calendar year direct written premium adjusted for premium not subject to the Federal Terrorism Policy Surcharge, summarized by policy year.

(2) The aggregate Federal Terrorism Policy Surcharge amount calculated by applying the established Surcharge percentage to the insurer's adjusted direct written premium by policy year.

(3) Insurer certification of the submission.

(c) The annual statements to be provided to Treasury will include the following:

(1) Direct written premium as defined in § 50.5(g), adjusted for premium not subject to the Federal Terrorism Policy Surcharge, summarized by policy year and by commercial line of insurance as specified in § 50.5(u).

(2) The aggregate Federal Terrorism Policy Surcharge amount calculated by applying the established Surcharge percentage to the insurer's adjusted direct written premium by policy year.

(3) In the case of an insurer that has chosen not to collect the Federal Terrorism Policy Surcharge from its policyholders as provided in § 50.74(f), a certification that the expense of collecting the Surcharge during the assessment period would have exceeded the amount of the Surcharges collected over the assessment period.

(4) Insurer certification of the submission.

(d) The calculated aggregate Federal Terrorism Policy Surcharge amount, as

described in paragraphs (b)(2) and (c)(2) of this section, shall be remitted to Treasury upon submission of each monthly and annual statement. Through its submitted statements, an insurer obtains credit for a refund of any Federal Terrorism Policy Surcharge previously remitted to Treasury that was subsequently returned by the insurer to a policyholder as attributable to refunded premium under § 50.74(e). A negative calculated amount in a monthly or annual statement indicates payment from Treasury is due to the insurer.

(e) Reporting shall continue for the one-year period following the end of the assessment period established by Treasury, unless otherwise permitted by Treasury.

§ 50.76 Insurer responsibility.

For purposes of the collection, reporting and remittance of Federal Terrorism Policy Surcharges to Treasury, an ''insurer,'' as defined in § 50.5(l), shall not include any affiliate of the insurer.

Dated: December 3, 2009.

Michael S. Barr,

Assistant Secretary (Financial Institutions).

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DEPARTMENT OF THE TREASURY

31 CFR Part 50

RIN 1505–AB92

Terrorism Risk Insurance Program; Cap on Annual Liability

AGENCY: Departmental Offices, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (''Treasury'') is issuing this final rule as part of its implementation of Title I of the Terrorism Risk Insurance Act of 2002 (''TRIA'' or ''the Act''), as amended by the Terrorism Risk Insurance Program Reauthorization Act of 2007 (''Reauthorization Act''). The Act established a temporary Terrorism Risk Insurance Program (''TRIP'' or ''Program'') under which the Federal Government would share with commercial property and casualty insurers the risk of insured losses from certified acts of terrorism. The Reauthorization Act has now extended the Program until December 31, 2014. This rule was published in proposed form on September 30, 2008, for public comment. Some clarifying changes have been made in the final rule in response to comments. The rule incorporates and implements statutory requirements in section 103(e) of the Act, as amended by the Reauthorization Act, for capping the annual liability for insured losses at $100 billion. In particular, the rule describes how Treasury intends to determine the *pro rata* share of insured losses under the Program when insured losses would otherwise exceed the cap on annual liability. The rule builds upon previous rules issued by Treasury.

DATES: This rule is effective January 13, 2010.

FOR FURTHER INFORMATION CONTACT: Howard Leikin, Deputy Director, Terrorism Risk Insurance Program, (202) 622–6770 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Terrorism Risk Insurance Act of 2002 (Pub. L. 107–297, 116 Stat. 2322) was enacted on November 26, 2002. The Act was effective immediately. The Act's purposes are to address market disruptions, ensure the continued widespread availability and affordability of commercial property and casualty insurance for terrorism risk, and allow for a transition period for the private markets to stabilize and build capacity while preserving state insurance regulation and consumer protections.

Title I of the Act establishes a temporary federal program of shared public and private compensation for insured commercial property and casualty losses resulting from an act of terrorism. The Act authorizes Treasury to administer and implement the Program, including the issuance of regulations and procedures. The Program provides a federal backstop for insured losses from an act of terrorism. Section 103(e) of the Act gives Treasury authority to recoup federal payments made under the Program through policyholder surcharges. The Act also contains provisions designed to manage litigation arising from or relating to an act of terrorism.

The Program originally was to expire on December 31, 2005; however, on December 22, 2005, the Terrorism Risk Insurance Extension Act of 2005 (Pub. L. 109–144, 119 Stat. 2660) was enacted, which extended the Program through December 31, 2007. On December 26, 2007, the Terrorism Risk Insurance Program Reauthorization Act of 2007 (Pub. L. 110–160, 121 Stat. 1839) was enacted, extending the Program through December 31, 2014.

The Reauthorization Act, among other Program changes, revised the provisions of the Act with regard to the cap on annual liability for insured losses of $100 billion. Previously, section 103(e)(3) stated that Congress would determine the procedures for and the source of any payments for insured losses in excess of the cap. This was deleted. Instead, this section now requires the Secretary of the Treasury to notify Congress not later than 15 days after the date of an act of terrorism as to whether aggregate insured losses are estimated to exceed the cap. TRIA, as amended by the Reauthorization Act, also requires the Secretary to determine the *pro rata* share of insured losses to be paid by each insurer incurring losses under the Program and that meets its deductible when insured losses exceed the cap, and to issue regulations for carrying this out.

II. Previous Rulemaking

To assist insurers, policyholders, and other interested parties in complying with immediately applicable requirements of the Act, Treasury has issued interim guidance for reference until issuance of superseding regulation. Rules establishing general provisions implementing the Program, including key definitions, and requirements for policy disclosures and mandatory availability, can be found in Subparts A, B, and C of 31 CFR Part 50. Treasury's rules applying provisions of the Act to State residual market insurance entities and State workers' compensation funds are at Subpart D of 31 CFR Part 50. Rules setting forth procedures for filing claims for payment of the Federal share of compensation for insured losses are at Subpart F of 31 CFR Part 50. Subpart G of 31 CFR Part 50 contains rules on audit and recordkeeping requirements for insurers, while Subpart I of 31 CFR Part 50 contains Treasury's rules implementing the litigation management provisions of section 107 of the Act.

III. The Proposed Rule

The proposed rule on which this final rule is based was published in the **Federal Register** at 73 FR 56767 on September 30, 2008. The proposed rule proposed to add a Subpart J to part 50, which comprises Treasury's regulations implementing the Act. It also proposed to amend § 50.53 of Subpart F. The proposed rule described how Treasury would initially estimate whether the cap will be exceeded, the means by which Treasury would develop and maintain estimates for determining the *pro rata* share of insured losses to be paid, the factors that would be considered in determining a *pro rata* percentage of the insured losses that are to be paid in order to stay within the cap, and the application of the *pro rata* percentage in paying insured losses.

IV. Summary of Comments and Final Rule

Treasury is now issuing this final rule after careful consideration of all comments received on the proposed rule. While this final rule largely reflects the proposed rule, Treasury has made several clarifications based on the comments received.

Treasury received comments on the proposed rule from two national insurance industry trade associations, a national insurance rating and data collection bureau, and one insurance company. Commenters generally noted that the approach to the administration of the cap is appropriate and efficient under the circumstances. Although Treasury invited the submission of alternatives to the proposed process for prorating insured losses when aggregate insured losses exceed the cap on annual liability, no other alternatives were submitted. In response to specific comments, Treasury has refined and clarified provisions in three areas: (1) Claims payments to be made immediately after an act of terrorism that is likely to exceed the cap on annual liability, but where specific *pro rata* amounts cannot yet be determined, (2) which insured losses will be affected by a *pro rata* determination, and (3) the prorating of insured losses where an insurer has not yet met its insurer deductible. The comments received and Treasury's revisions to the proposed rule are summarized below.

1. Notice to Congress (§ 50.91)

Proposed § 50.91 stated, in part, that pursuant to Section 103(e)(3) of the Act, the Secretary shall provide an initial notice to Congress within 15 days of the certification of an act of terrorism, stating whether the Secretary estimates that aggregate insured losses will exceed $100 billion for the Program Year. Two commenters requested that Treasury change the language of proposed § 50.91, in accordance with their reading of Section 103(e)(3), to require an initial notice to Congress within 15 days of the occurrence of an act of terrorism.

Section 103(e)(3) of the Act requires the Secretary to notify the Congress if estimated or actual aggregate insured losses exceed $100 billion during a Program Year. It further provides (as added by the Reauthorization Act) that ''the Secretary shall provide an initial notice to Congress not later than 15 days after the date of an act of terrorism, stating whether the Secretary estimates that aggregate insured losses will exceed $100,000,000,000.''

''Act of terrorism'' is a defined statutory term. Under Section 102(1)(A), an ''act of terrorism'' is any act which is certified by the Secretary, in concurrence with the Secretary of State and the Attorney General of the United States, to meet certain specified elements. Without certification, an act does not meet the definition of an ''act of terrorism.''

Treasury believes that the most reasonable interpretation of the second sentence of Section 103(e)(3) is that the initial notice must be provided to Congress not later than 15 days after certification of an act of terrorism. There is no limitation under Section 102(1) on the time the Secretary may take to certify, or determine not to certify, an act as an act of terrorism. That time could in many circumstances be more than 15 days after the act. In addition, as noted in the preamble to the proposed rule, there may be significant challenges involved in obtaining data for an estimate of aggregate insured losses even within the 15 days following the *certification* of an act of terrorism.

This interpretation is also consistent with the Procedural Order entered by the Judicial Panel on Multidistrict Litigation concerning the 90-day period in Section 107(a)(4) of the Act, which requires a designation by the Panel ''not later than 90 days after the occurrence of an act of terrorism.'' The order notes the definition of an ''act of terrorism'' and accordingly provides that ''the 90-day period for the Panel to designate the court or courts for litigation covered by the Act begins on the date that the Treasury Secretary certifies an act of terrorism.'' Procedural Order filed June 1, 2004 is available at *http://www.treas.gov/offices/domestic-finance/financial-institution/terrorism-insurance/pdf/order.pdf.*

For the above reasons, Treasury is adopting as the final rule § 50.91 as it was proposed.

2. Determination of Pro Rata Share (§ 50.92)

Under the Reauthorization Act, the Secretary shall not make any payment for any portion of the amount of aggregate insured losses that exceeds $100 billion during any Program Year; and no insurer that has met its deductible shall be liable for the payment of any portion of the amount of such insured losses that exceeds $100 billion. Generally, Treasury's approach will be to establish any proration relatively conservatively when it is estimated that the cap will be reached, so that early payments are not inequitably higher than later payments, and so that, barring a subsequent act of terrorism in the same Program Year, later refinements to the proration will allow additional payments to policyholders for prior settled losses. During a Program Year, until events have transpired that lead Treasury to believe that the cap could be reached, it is our intention that no proration would be established.

The final rule includes a definition of ''*pro rata* loss percentage'' (''PRLP''). This is the percentage determined by the Secretary to be applied against the amount that would otherwise be paid by an insurer under the terms and conditions of an insurance policy providing property and casualty insurance under the Program if there were no cap on annual liability. An insurer would apply the PRLP to compute the *pro rata* share of insured losses to be paid under an insurance policy.

The final rule provides that if Treasury estimates that insured losses may exceed the cap on annual liability for a Program Year, then Treasury will determine an initial PRLP and an effective date for that PRLP. This percentage applies in determining insured loss payments for insured losses incurred during the subject Program Year, starting with the effective date until Treasury determines a revised PRLP. Considerations in establishing the PRLP are: (1) Estimates of insured losses from insurance industry statistical organizations; (2) any data calls issued by Treasury; (3) expected reliability and accuracy of insured loss estimates and likelihood that insured loss estimates could increase; (4) estimates of insured losses and expenses not included in available statistical reporting; and (5) such other factors as the Secretary considers important. Revisions to the PRLP will be based on the same considerations, as needed. Notices of the initial and any revised PRLP will be provided through the **Federal Register,** or in another manner Treasury deems appropriate, based upon the circumstances of the act of terrorism under consideration.

In the preamble to the proposed rule, Treasury expressed its concern that there could be circumstances where we estimate that the cap on annual liability will be exceeded, but there is not yet adequate knowledge of insured losses with which to determine a PRLP. Allowing payments for early insured losses under the Program to continue without proration appears to be inequitable to those claimants with insured losses coming in later, for which the *pro rata* share calculation would have to be that much more severe. Treasury proposed that in such

a circumstance it would call a brief hiatus in insurer loss payments of up to two weeks. During this time Treasury would develop a PRLP as quickly as possible. During this hiatus, insurers could still make payments, but with the understanding that the PRLP would be effective retroactively to the start of the hiatus. Any insured losses later submitted in support of an insurer's claim for the Federal share of compensation would be reviewed for compliance with the regulations pertaining to the *pro rata* share payments.

One commenter commented that, absent an agreement between Federal and State officials concerning the preemptive scope of the Reauthorization Act, State insurance departments and labor commissions may seek to require the continuation of full benefits despite the hiatus. Insurers may have no option but to continue paying full benefits which would place them at odds with the compensation to be provided later under a retroactive PRLP. The commenter suggested, as an alternative to the hiatus, establishing an initial conservative PRLP which would be replaced by a higher PRLP determined later.

Treasury included a provision on a hiatus in the proposed rule because we believe that it is consistent with our authority in the Reauthorization Act to implement our Program obligations. In developing the proposed rule, Treasury consulted with the National Association of Insurance Commissioners (NAIC), and has not received any further comments from that group. In considering the submitted comment, we do see merit in providing some flexibility in managing the circumstances that had prompted the proposed hiatus and have made some revisions to § 50.92(e) in the final rule. First, we have added a provision stating that we would consult with the relevant state authorities before initiating action. Second, while we have retained the hiatus as a possible action, we have also added the possible alternative of determining an interim PRLP. This separately defined term is an amount determined without the availability of information necessary for consideration of all factors listed in § 50.92(b). All other provisions applicable to the PRLP would apply to the interim PRLP. This would be a conservatively low percentage amount determined in order to facilitate initial partial payments of claims by insurers after an act of terrorism and prior to the time that information becomes available to determine a PRLP based on consideration of the factors listed in § 50.92(b).

The more refined and expectedly higher PRLP, as later determined, would be effective retroactively as of the effective date of the interim PRLP. Any insured losses submitted in support of an insurer's claim for the Federal share of compensation would then be reviewed for the insurer's compliance with *pro rata* payments in accordance with the effective date of the interim PRLP, or as later replaced by the subsequent PRLP as appropriate. Thus, an insurer would be able to make additional payments and claims for the Federal share on insured losses previously limited by the interim PRLP. This alternative should provide us with enough flexibility to quickly establish proration, if necessary, in the aftermath of an act of terrorism.

One commenter requested clarification as to how and when policyholders are to be notified that benefits will be adjusted pursuant to the PRLP. As provided in TRIP regulations (§ 50.15(b)), as a condition for payments of the federal share of compensation for insured losses, an insurer must disclose to the policyholder the existence of the cap on annual liability for losses, at the time of offer, purchase, and renewal of the policy. The timing and form of notification to the policyholder of the adjustment, once Treasury has provided public notice of its determination of a PRLP, is up to the discretion and management of the insurer as guided by any pertinent State requirements.

3. Application of Pro Rata Share (§ 50.93)

In the proposed rule, Treasury provided that the PRLP be applied by insurers prospectively on individual insured losses that have not been settled as of the effective date of a PRLP. The intention was that the process of proration would not retroactively require repayment of any claims already legitimately made (or agreed to be paid) to insureds for insured losses. The impracticality of recovering payments already made has been generally recognized.

Proposed § 50.93 directed insurers to apply the PRLP to determine the *pro rata* share of each insured loss to be paid by the insurer on all insured losses where there is not a *signed settlement* as of the effective date established by Treasury for the PRLP. The same procedure would apply whether this was an initial PRLP or a subsequent PRLP that supersedes the prior determination.

Two commenters raised concerns over the use of a ''signed settlement'' in determining whether an insured loss is subject to proration. One commenter noted that the types of claims generated by a terrorist event may not lend themselves to signed settlement agreements and therefore recommended that the rule should refer to a ''claim paid'' instead. The other commenter, addressing the same concern, suggested that the rule refer to a ''complete and final settlement'' and a ''memorialization'' of the settlement. After consideration of these comments, Treasury has modified the final rule to provide that an insurer ''shall apply the PRLP to determine the *pro rata* share of each insured loss to be paid by the insurer on all insured losses where there is not an agreement on a complete and final settlement as evidenced by a signed settlement agreement or other means reviewable by a third party as of the effective date established by Treasury.'' We believe that this allows reasonable flexibility for insurers settling claims before and after the effective date of a PRLP while requiring appropriate documentation that can be reviewed during an audit.

One commenter also noted that it appeared that the proposed rule would not allow ''signed settlements'' executed after an initial PRLP to be modified should the PRLP later increase. This circumstance was addressed in proposed § 50.95(a) which spoke to Treasury's determination of a final PRLP and ''adjustments to previous insured loss payments.'' We anticipate that it is most likely that Treasury would only increase the PRLP once it is clear what a final proration should be. However, in reviewing this comment we have determined that we can accommodate other increases in the PRLP should they be warranted prior to determining a final PRLP and allow payments on ''prior settlements'' to be increased. This will be accomplished by establishing the effective date of a higher PRLP retroactively to an appropriate earlier PRLP effective date, similar to the mechanism described above for the interim PRLP that would facilitate initial partial claim payments by insurers under § 50.92(e). This will allow insurers to determine any additional payment amounts and allow the submission of updated loss information to Treasury for purposes of determining the Federal share of compensation to be reviewed under the new PRLP criteria.

In proposed § 50.93(a), Treasury provided that the *pro rata* share is determined based on the final claim settlement amount that would otherwise be paid. If partial payments have already been made as of the effective

date of the PRLP, then the *pro rata* share for that loss is the greater of the amount already paid or the amount computed by applying the PRLP to the estimated or actual final claim settlement amount. One commenter recommended the inclusion of words at the end of the subsection, for consistency and clarity, reinforcing that the PRLP is being applied to the final claim settlement amount ''that would otherwise be paid.'' The final rule has been revised to include this. Treasury noted in the preamble to the proposed rule that some insured losses, such as those associated with workers' compensation or business interruption, may involve ongoing regular payments. In these cases, the proration would still be determined based on the final claim settlement amount that would otherwise be paid.

In the claims procedures regulations (Subpart F) and in the forms for insurer submissions for the Federal share of compensation that Treasury has already promulgated, workers' compensation losses are required to be substantiated at the policy level. That is to say, underlying loss information on the bordereaux and reviewed by Treasury in determining the Federal share is submitted in aggregate by policy/employer rather than individual claimant/employee. In the proposed rule, Treasury proposed to continue that scheme. The application of the PRLP to determine the *pro rata* share would be against the estimated or actual unprorated loss amounts by policy (broken down by medical only, medical portion of indemnity, and indemnity portion of indemnity), following the way loss information has been required to be reported as part of the TRIP Certifications of Loss. Despite this calculation of the *pro rata* share at the policy level for purposes of reporting to Treasury, Treasury noted its expectation that insurers would prorate payments made to individual claimants.

One commenter suggested that for workers' compensation losses, the PRLP should be applied and controlled by Treasury at the claimant level rather than at the policy level. The comment also made note that workers' compensation losses could involve ''hundreds or thousands of claimants from the same event at the same location.'' The commenter also supplied an example of a scenario where the proration on a policy basis was carried out in such a way that the *pro rata* portion of the payment that otherwise would have been made to one claimant (58 percent) was significantly different than the *pro rata* portion of payment for another claimant (92 percent) under the same policy.

Treasury has carefully reviewed this comment along with the submitted example. In part, the disparity in the example is due to the timing of claims with the establishment of a PRLP, a circumstance that has generally been noted as possibly producing disparities in all lines of business, not just workers' compensation. We note that the disparity in *pro rata* portions of payments in the example was exacerbated by the manner in which the PRLP was applied at the claimant level. Application of the proration at the claimant level can be carried out in ways that are consistent with the rule, but can reduce or exacerbate disparities.

After considering this comment in the context of other authority and control concerns, Treasury has concluded that the proposed application of the PRLP to workers' compensation claims, controlled by Treasury at the policy level as described in the notice of proposed rulemaking, will be adopted in the final rule for the following reasons.

When establishing the claims process for TRIP, it was generally recognized that creating a system under which detailed reporting of insured losses would be required at the claimant level went beyond what is necessary for Treasury to fulfill its program obligations as a ''reinsurer''. We believe that this is still fundamentally the right approach and do not want to require a more detailed reporting structure for all acts of terrorism because of the contingency that there might be a requirement to cap annual losses. Nor do we want to develop a system with two different levels of reporting dependent on whether annual losses are to be capped or not.

There is some flexibility in how an employer (the policyholder) and the insurer decide to manage payment streams. This includes how and when insurance payments to claimants are continued at a reduced level, or stopped after limits are reached. We expect proration to be done in some manner at the claimant level, but the detail as to exactly how that is done may depend on other factors and authorities that are not superseded by this rule.

Treasury's interest is in managing the proration due to the cap on annual losses in such a way that makes sense as a ''reinsurer''. We continue to believe that this is best accomplished by controlling the application of proration at the policy level. However, as discussed below, we have provided for the possibility of some adjustments in the calculation of the Federal share of compensation for insured losses in the context of workers' compensation policies in one particular situation.

The same commenter also recommended language for § 50.93(a) to provide additional flexibility in workers' compensation cases for handling partial payments versus the final claim settlement amount. Under the commenter's assumption that proration and the computation of the Federal share of compensation would be computed at the claimant level, the commenter provided examples where an injured worker either had a shorter life or returned to work sooner than anticipated in the estimates of final claim settlement amount. Thus applying the PRLP to the actual final claim settlement amount produced a lower *pro rata* amount than the amount of partial payments already made, which were based on the expectation of a higher final claim settlement amount. An insurer therefore might not be fully compensated in the computation of the Federal share because it is based on applying the PRLP to the lower actual final settlement amount. However, in the provided examples where payments to an injured worker continued longer than anticipated in the estimates, applying the PRLP to the actual final claim settlement amount fully compensated the insurer. The commenter recommended modifying the proposed rule to provide that in cases where the estimated or actual settlement amount is lower than a prior estimate, then ''the *pro rata* share of that loss is the greater of the amount already paid or the amount computed by applying the PRLP to the estimated or actual final claim settlement amount.''

The issue presented is another reason why Treasury believes that the better way to compute and control the *pro rata* share of losses under a workers' compensation policy for purposes of determining the Federal share of compensation is at the policy level. For a workers' compensation policy, in all likelihood the final claim settlement amount to which the PRLP is applied will remain an estimated amount for quite some time. As noted by the commenter, the fluctuation of the actual settlement amount from the estimated amount at the claimant level could be significant.

Treasury anticipates the estimate at the policy level would be a much more stable amount, taking into account that some actual payments to individual claimants may be less than the expected amounts while others may be greater. However, we do understand how even at the policy level, where perhaps a policy is covering a small number of employees, that a circumstance such as

actual mortality differing from original assumptions could produce an unexpectedly large reduction in the estimated loss after payments have already been made. The final rule has been modified by adding a provision in § 50.93(c) allowing a workers' compensation insurer to submit for review information justifying an appropriate adjustment in the calculation of the Federal share of compensation.

A commenter noted the assumption that concerned insurance trade associations would work with Treasury to address the issue of what happens if an employer is unable to rely on its workers' compensation insurance for full payment of an injured worker's claim. No other comments specific to this issue have been submitted. This is not an issue addressed under the Act.

In the notice of proposed rulemaking, Treasury noted that in examining our authorities as stipulated in the Reauthorization Act, the conclusion was reached that we cannot provide for *pro rata* sharing of insured losses in such a way that an insurer's liability would be limited when it has not met its deductible. Thus, proposed § 50.93 provided that if an insurer has not yet made payments in excess of its insurer deductible, but estimates that it will exceed its deductible by making payments based on the application of the PRLP, then that insurer shall apply the PRLP as of the effective date of the PRLP. If an insurer has not yet made payments in excess of its insurer deductible, but estimates that it will not exceed its deductible by making payments based on the application of the PRLP, then that insurer may make payments on the same basis as prior to the effective date of the PRLP. In this latter circumstance, the decision to prorate as of the effective date of the PRLP would be up to the insurer. If the insurer prorates and does not exceed its deductible, then it would be liable for additional, retroactive loss payments that in the aggregate bring the insurer's total insured loss payments up to an amount equal to the lesser of its insured losses without proration or its insurer deductible. If the insurer does not prorate, but does exceed its deductible, then it would apply the PRLP to its remaining insured losses once it makes payments equal to its insurer deductible. Once an insurer exceeds its deductible and submits a claim for the Federal share of compensation, however, Treasury's review of eligible payments associated with the underlying losses and calculations for the Federal share would be based on the application of the PRLP as if the insurer had originally estimated that it would exceed its deductible while applying the PRLP to its insured losses.

Two comments were submitted regarding this provision of the proposed rule. One commenter urged Treasury to require that the PRLP be used by all insurers until loss estimates clearly demonstrate that an insurer will not reach its deductible. The commenter's concern was that an insurer might attempt to gain a competitive advantage in attracting or retaining business by underestimating losses to be within the insurer deductible and thus making higher loss payments by not applying the otherwise required PRLP.

A second commenter recommended that insurers be allowed to request Treasury approval of an individual insurer PRLP that is greater than the published PRLP so that an insurer can more quickly make payments that approach its insurer deductible amount. The commenter's concern was that the proposed rule appeared to allow only two choices: applying the PRLP with a delayed truing up with policyholders at a later date when Treasury has determined the final PRLP, or making unprorated payments to policyholders and possibly exceeding their insurer deductible without being eligible for a Federal sharing of losses above the deductible.

These two comments conflict with one another. Treasury's intention with § 50.93(c) of the proposed rule was to allow an insurer, that already knows that it will not meet its insurer deductible by applying the PRLP to its insured losses, to expeditiously meet its obligations to its policyholders. The onus for estimating its losses relative to its insurer deductible and the consequence for overpaying losses that should have been prorated, was placed on the insurer who, as opposed to Treasury, would have the most up to date information. On balance, Treasury believes that the objective of expediting complete payment of insured losses overrides the concern that an insurer might overpay to gain a competitive advantage. Any such overpayment will not affect the Federal share of compensation. Treasury believes that additional flexibility can be provided in the rule without requiring Treasury approval of individual insurer PRLP's. The final rule has been modified to allow an insurer that has not yet made payments in excess of its insurer deductible and that estimates it will not exceed its deductible making payments based on the application of the PRLP, to make payments ''on the basis of applying some other *pro rata* amount it determines that is greater than the PRLP, where the insurer estimates that application of such other *pro rata* amount will result in it not exceeding its insurer deductible.'' The insurer is still liable for loss payments that in the aggregate bring the insurer's total insured loss payments up to an amount equal to the lesser of its insured losses without proration or its insurer deductible.

4. Data Call Authority (§ 50.94)

Treasury proposed in § 50.94 of the proposed rule that it may issue a data call to insurers for the submission of insured loss information. We explained that we anticipate requesting summary level information on insured losses and insurer deductible information. Such a collection of data may be necessary not only for the purposes of the cap on annual liability, but also with regard to potential recoupment. Treasury further explained that we intend, to the extent possible, to rely on existing industry statistical reporting mechanisms in making initial estimates. However, in order to estimate whether the cap on annual liability will be reached and determine an initial or subsequent PRLP, it may be necessary to have more timely detail regarding insurer deductibles and reserves for insured losses from lines of business not normally included in existing industry reporting.

Two entities provided comments regarding the data call authority. Both recognized the appropriateness of Treasury collecting insurer loss data in order to meet Program obligations.

One commenter noted that proposed § 50.91 stated that the initial reporting obligation to Congress would be met based on loss information ''compiled by insurance industry statistical organizations and any other information the Secretary in his or her discretion considers appropriate.'' Further, Treasury indicated in the description of this section of the proposed rule that a data call may not be timely enough to meet the reporting obligation. The commenter stated that Treasury should consider adding clarifying language to § 50.94 reflecting this view. We reiterate that our intention is to meet the initial reporting obligation through data obtained from statistical organizations and other sources of general loss information. However, we do not wish to unnecessarily restrict the use of a data call if that became the only way for us to meet our statutory reporting obligation. Therefore, § 50.94 of the final rule has not been revised.

Both commenters asserted that data requested be ''relevant and accessible'' and that the request should minimize

disruptions to insurer claims handling during a catastrophic event. One commenter further urged that Treasury ''continue this current rulemaking, and determine and define what data they will need.''

In the Notice of Proposed Rulemaking, Treasury provided estimates of burden hours to comply with data requests as well as specific data elements for summary level loss information that is contemplated under a data call. This included initial information requested in the immediate aftermath of an act of terrorism as well as further information that might be requested as claims processes progressed. As part of the Paperwork Reduction Act requirements for this rulemaking, comments on the collection of information in the proposed rule were solicited for submission to the Office of Management and Budget (OMB) with a 60-day comment period. No comments were submitted.

In past development of information collection requirements associated with the Terrorism Risk Insurance Program, Treasury has benefited from both the formal processes and informal contacts with members of the insurance industry. We will continue both of these types of efforts in further development of the data call requirements.

Concerning the data calls contemplated by proposed § 50.94, one commenter requested that Treasury recognize that the claims data should be considered proprietary information of the submitting insurers and suggested that provisions be added to the regulation similar to what was included in ''The Insurance Information Act of 2008'', which was introduced in, but not passed by the 110th Congress.

The Program does not intend to make insurer-specific data public. The regulation does not override other law that would otherwise be applicable. Any information submitted to Treasury would be subject to the Freedom of Information Act (FOIA). Treasury would handle any request for information that has been submitted by an insurer in response to a data call in accordance with Treasury's FOIA regulations at 31 CFR Part 1. This would include consideration of the applicability of FOIA exemptions, including those applicable to commercially or financially sensitive information.

5. Other Comments

One commenter raised the general topic of the interaction of the regulations with State law, and suggested that guidance on certain issues would be helpful to insurers. The issues noted were: How the payment hiatus interacts with State prompt payment laws; the extent to which a State regulator may modify the procedures in the regulations; and the extent to which a State regulator may require that a preference be applied to the full payment of certain lines, claims, or insureds.

Section 106(a) of the Act provides generally that nothing in the Act shall affect the jurisdiction or regulatory authority of the insurance commissioner (or any agency or office performing like functions) of any State over any insurer or other person except as specifically provided in the Act. Section 103(a)(2) of the Act provides that notwithstanding any other provision of State or Federal law, the Secretary shall administer the Program, and shall pay the Federal share of compensation for insured losses in accordance with subsection (e). Section 103(e)(2) requires Treasury to issue regulations for determining the *pro rata* share of insured losses under the Program when insured losses exceed $100 billion.

Treasury consulted with the National Association of Insurance Commissioners (NAIC) early in the process of formulating the proposed rule. If specific issues are raised in the future, Treasury will consider issuing further guidance as appropriate.

V. Procedural Requirements

Executive Order 12866, ''Regulatory Planning and Review''. This rule is a significant regulatory action for purposes of Executive Order 12866, ''Regulatory Planning and Review,'' and has been reviewed by the OMB.

Regulatory Flexibility Act. Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* it is hereby certified that this rule will not have a significant economic impact on a substantial number of small entities. TRIA requires all insurers that receive direct earned premiums for commercial property and casualty insurance to participate in the Program. The Act also defines ''property and casualty insurance'' to mean commercial lines, with certain specific exclusions. Insurers affected by these regulations tend to be large businesses, therefore Treasury has determined that the rule will not affect a substantial number of small entities. In addition, the Department has determined that any economic impact will not be significant. Under the Act, Treasury shall not make any payment for any portion of the amount of annual aggregate insured losses that exceed $100 billion and no insurer that has met its insurer deductible is liable for the payment of any portion of the amount of annual aggregate insured losses that exceeds $100 billion. Further, the Act requires the Secretary to determine the *pro rata* share of insured losses to be paid by each insurer and to issue regulations for determining the *pro rata* share of insured losses under the Program. If there is no act of terrorism, or there are insured losses cumulatively less than $100 billion (a level that is more than three times the amount reported by the insurance industry for the World Trade Center), this regulation has no economic impact. Should the legislatively mandated cap on annual losses be triggered, proration is carried out through existing insurer and policyholder processes for claiming, adjusting and settling insured losses. Moreover, for any affected commercial property and casualty insurers (including those that might be small entities), there is a favorable economic impact because the rule implements the statutory limitation on an insurer's liability. Treasury did not receive any comments at the proposed rule stage relating to the rule's impact on small entities. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act. The collection of information contained in this final rule has been approved by the OMB under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3507(d), and has been assigned control number 1505–0208. Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and an individual is not required to respond to, a collection of information unless it displays a valid OMB control number.

Executive Order 13132, ''Federalism.'' The rule may have federalism implications to the extent it deals with the making of payments by insurers to their policyholders under contracts of insurance, which is ordinarily regulated under State insurance law. However, TRIA established a temporary Federal program that is national in scope and significance. Section 106 of TRIA preserves the jurisdiction or regulatory authority of State insurance commissioners or similar offices, except as specifically provided in TRIA. Section 103(e)(2) requires Treasury to issue regulations for determining the *pro rata* share of insured losses under the Program when insured losses exceed $100 billion.

Treasury consulted with the NAIC early in the process of formulating the proposed rule. State insurance commissioners who are members of the NAIC Terrorism Insurance Working Group were given an opportunity to submit comments, and a few minor and technical comments were received and considered by Treasury. No further

comments were received on the proposed rule.

The provision in the rule (§ 50.92(e)) where Treasury would call for a hiatus in payments by insurers in circumstances where the cap on annual liability may be exceeded, but an appropriate PRLP cannot yet be determined, could potentially conflict with State insurance laws prescribing fixed periods for insurers to pay claims. However, Treasury believes the impact is limited in the rule because the period of the hiatus is brief (up to two weeks), and it would apply shortly after an act of terrorism occurs. Treasury concluded that a brief hiatus may be necessary to carry out the purpose of the statute to establish shares of insured losses on a *pro rata* basis by avoiding the inequity of allowing early claims to be paid in full before a PRLP can be determined.

As noted above in response to a comment on the proposed rule, Treasury has modified the final rule to include the second option of an interim PRLP to address the circumstance where information necessary for consideration of all factors listed in § 50.92(b) is unavailable. The final rule also provides that Treasury will consult with relevant state authorities before a course of action is selected. These added provisions further mitigate the federalism implications.

List of Subjects in 31 CFR Part 50

Terrorism risk insurance.

Authority and Issuance

■ For the reasons set forth above, 31 CFR Part 50 is amended as follows:

PART 50—TERRORISM RISK INSURANCE PROGRAM

■ 1. The authority citation for part 50 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 321; Title I, Pub. L. 107–297, 116 Stat. 2322, as amended by Pub. L. 109–144, 119 Stat. 2660 and Pub. L. 110–160, 121 Stat. 1839 (15 U.S.C. 6701 note).

■ 2. Section 50.53 is amended by adding paragraph (b)(5) to read as follows:

§ 50.53 Loss certifications.

* * * * *

(b) * * *

(5) A certification that if Treasury has determined a *Pro rata* Loss Percentage (PRLP) (see § 50.92), the insurer has complied with applying the PRLP to insured loss payments, where required.

* * * * *

■ 3. Subpart J is added to read as follows:

SUBPART J—CAP ON ANNUAL LIABILITY

Sec.

SUBPART J—CAP ON ANNUAL LIABILITY

§ 50.90 Cap on annual liability.

Pursuant to Section 103 of the Act, if the aggregate insured losses exceed $100,000,000,000 during any Program Year:

(a) The Secretary shall not make any payment for any portion of the amount of such losses that exceeds $100,000,000,000;

(b) No insurer that has met its insurer deductible shall be liable for the payment of any portion of the amount of such losses that exceeds $100,000,000,000; and

(c) The Secretary shall determine the *pro rata* share of insured losses to be paid by each insurer that incurs insured losses under the Program.

§ 50.91 Notice to Congress.

Pursuant to section 103(e)(3) of the Act, the Secretary shall provide an initial notice to Congress within 15 days of the certification of an act of terrorism, stating whether the Secretary estimates that aggregate insured losses will exceed $100,000,000,000 for the Program Year in which the event occurs. Such initial estimate shall be based on insured loss amounts as compiled by insurance industry statistical organizations and any other information the Secretary in his or her discretion considers appropriate. The Secretary shall also notify Congress if estimated or actual aggregate insured losses exceed $100,000,000,000 during any Program Year.

§ 50.92 Determination of *pro rata* share.

(a) *Pro rata loss percentage (PRLP)* is the percentage determined by the Secretary to be applied by an insurer against the amount that would otherwise be paid by the insurer under the terms and conditions of an insurance policy providing property and casualty insurance under the Program if there were no cap on annual liability under section 103(e)(2)(A) of the Act.

(b) Except as provided in paragraph (e) of this section, if Treasury estimates that aggregate insured losses may exceed the cap on annual liability for a Program Year, then Treasury will determine a PRLP. The PRLP applies to insured loss payments by insurers for insured losses incurred in the subject Program Year, as specified in § 50.93, from the effective date of the PRLP, as established by Treasury, until such time as Treasury provides notice that the PRLP is revised. Treasury will determine the PRLP based on the following considerations:

(1) Estimates of insured losses from insurance industry statistical organizations;

(2) Any data calls issued by Treasury (see § 50.94);

(3) Expected reliability and accuracy of insured loss estimates and likelihood that insured loss estimates could increase;

(4) Estimates of insured losses and expenses not included in available statistical reporting;

(5) Such other factors as the Secretary considers important.

(c) Treasury shall provide notice of the determination of the PRLP through publication in the **Federal Register**, or in another manner Treasury deems appropriate, based upon the circumstances of the act of terrorism under consideration.

(d) As appropriate, Treasury will determine any revision to a PRLP based on the same considerations listed in paragraph (b) of this section, and will provide notice for its application to insured loss payments.

(e) If Treasury estimates based on an initial act of terrorism or subsequent act of terrorism within a Program Year that aggregate insured losses may exceed the cap on annual liability, but an appropriate PRLP cannot yet be determined, Treasury will provide notification advising insurers of this circumstance and, after consulting with the relevant State authorities, may initiate the action described in either paragraph (e)(1) or (e)(2) of this section.

(1) Call a hiatus in insurer loss payments for insured losses of up to two weeks. In such a circumstance, Treasury will determine a PRLP as quickly as possible. The PRLP, as later determined, will be effective retroactively as of the start of the hiatus. Any insured losses submitted in support of an insurer's claim for the Federal share of compensation will be reviewed for the insurer's compliance with *pro rata* payments in accordance with the effective date of the PRLP.

(2) Determine an interim PRLP. (i) An interim PRLP is an amount determined without the availability of information necessary for consideration of all factors listed in § 50.92(b). It is a conservatively low percentage amount determined in order to facilitate initial partial claim payments by insurers after an act of terrorism and prior to the time that information becomes available to

determine a PRLP based on consideration of the factors listed in § 50.92(b).

(ii) In such a circumstance, Treasury will determine a PRLP to replace the interim PRLP as quickly as possible. The PRLP, as later determined, will be effective retroactively as of the effective date of the interim PRLP. Any insured losses submitted in support of an insurer's claim for the Federal share of compensation will be reviewed for the insurer's compliance with *pro rata* payments in accordance with the effective date of the interim PRLP, or as later replaced by the PRLP as appropriate.

§ 50.93 Application of *pro rata* share.

An insurer shall apply the PRLP to determine the *pro rata* share of each insured loss to be paid by the insurer on all insured losses where there is not an agreement on a complete and final settlement as evidenced by a signed settlement agreement or other means reviewable by a third party as of the effective date established by Treasury. Payments based on the application of the PRLP and determination of the *pro rata* share satisfy the insurer's liability for payment under the Program. Application of the PRLP and the determination of the *pro rata* share are the exclusive means for calculating the amount of insured losses for Program purposes. The *pro rata* share is subject to the following:

(a) The *pro rata* share is determined based on the estimated or actual final claim settlement amount that would otherwise be paid.

(b) *All policies.* If partial payments have already been made as of the effective date of the PRLP, then the *pro rata* share for that loss is the greater of the amount already paid as of the effective date of the PRLP or the amount computed by applying the PRLP to the estimated or actual final claim settlement amount that would otherwise be paid.

(c) *Certain workers' compensation insurance policies.* If an insurer's payments under a workers' compensation policy cumulatively exceed the amount computed by applying the PRLP to the estimated or actual final claim settlement amount that would otherwise be paid because such estimated or actual final settlement amount is reduced from a previous estimate, then the insurer may request a review and adjustment by Treasury in the calculation of the Federal share of compensation. In requesting such a review, the insurer must submit information to supplement its Certification of Loss demonstrating a reasonable estimate invalidated by unexpected conditions differing from prior assumptions including, but not limited to, an explanation and the basis for the prior assumptions.

(d) If an insurer has not yet made payments in excess of its insurer deductible, the rules in this paragraph apply.

(1) If the insurer estimates that it *will* exceed its insurer deductible making payments based on the application of the PRLP to its insured losses, then the insurer shall apply the PRLP as of the effective date specified in § 50.92(b).

(2)(i) If the insurer estimates that it *will not* exceed its insurer deductible making payments based on the application of the PRLP to its insured losses, then the insurer may make payments on the same basis as prior to the effective date of the PRLP. The insurer may also make payments on the basis of applying some other *pro rata* amount it determines that is greater than the PRLP, where the insurer estimates that application of such other *pro rata* amount will result in it not exceeding its insurer deductible. The insurer remains liable for losses in accordance with § 50.95(c).

(ii) If an insurer estimates that it will not exceed its insurer deductible and has made payments on the basis provided in (2)(i), but thereafter reaches its insurer deductible, then the insurer shall apply the PRLP to any remaining insured losses. When such an insurer submits a claim for the Federal share of compensation, the amount of the insurer's losses will be deemed to be the amount it would have paid if it had applied the PRLP as of the effective date, and the Federal share of compensation will be calculated on that amount. However, an insurer may request an exception if it can demonstrate that its estimate was invalidated as a result of insured losses from a subsequent act of terrorism.

§ 50.94 Data call authority.

For the purpose of determining initial or recalculated PRLPs, Treasury may issue a data call to insurers for insured loss information. Submission of data in response to a data call shall be on a form promulgated by Treasury.

§ 50.95 Final amount.

(a) Treasury shall determine if, as a final proration, remaining insured loss payments, as well as adjustments to previous insured loss payments, can be made by insurers based on an adjusted PLRP, and aggregate insured losses still remain within the cap on annual liability. In such a circumstance, Treasury will notify insurers as to the final PRLP and its application to insured losses.

(b) If paragraph (a) of this section applies, Treasury may require, as part of the insurer submission for the Federal share of compensation for insured losses, a supplementary explanation regarding how additional payments will be provided on previously settled insured losses.

(c) An insurer that has prorated its insured losses, but that has not met its insurer deductible, remains liable for loss payments that in the aggregate bring the insurer's total insured loss payments up to an amount equal to the lesser of its insured losses without proration or its insurer deductible.

Dated: December 3, 2009.

Michael S. Barr,

Assistant Secretary (Financial Institutions).

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Proposed Rules

Federal Register
Vol. 74, No. 238
Monday, December 14, 2009

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA–2006–0114]

RIN 0960–AD78

Revised Medical Criteria for Evaluating Endocrine Disorders

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to revise the criteria in the Listing of Impairments (the listings) that we use to evaluate claims under titles II and XVI of the Social Security Act (Act) involving endocrine disorders in adults and children. The proposed revisions reflect advances in medical knowledge, information we received from medical experts, comments we received from the public in response to an Advance Notice of Proposed Rulemaking (ANPRM) and at an outreach policy conference, and our adjudicative experience.

DATES: To ensure that your comments are considered, we must receive them by no later than February 12, 2010.

ADDRESSES: You may submit comments by any one of four methods—Internet, fax, mail, or hand-delivery. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA–2006–0114 so that we may associate your comments with the correct regulation.

Caution: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. *Internet:* We strongly recommend this method for submitting your comments. Visit the Federal eRulemaking portal at *http://www.regulations.gov.* Use the *Search* function of the webpage to find docket number SSA–2006–0114, then submit your comment. Once you submit your comment, the system will issue you a tracking number to confirm your submission. You will not be able to view your comment immediately as we must manually post each comment. It may take up to a week for your comment to be viewable.

2. *Fax:* Fax comments to (410) 966–2830.

3. *Mail:* Address your comments to the Commissioner of Social Security, P.O. Box 17703, Baltimore, Maryland 21235–7703.

4. *Hand-delivery:* Deliver your comments to the Office of Regulations, Social Security Administration, 137 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, between 8 a.m. and 4:30 p.m., Eastern Time, business days.

Comments are available for public viewing on the Federal eRulemaking portal at *http://www.regulations.gov* or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Judy Hicks, Office of Medical Listings Improvement, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–1020. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213, or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at *http://www.gpoaccess.gov/fr/index.html.*

What revisions are we proposing?

We propose to:

- Revise and expand the introductory text to the endocrine body system for both adults (section 9.00) and children (section 109.00);
- Remove all of the current adult listings in the endocrine body system (listings 9.02–9.08); and
- Remove all of the current childhood listings in the endocrine body system (listings 109.02–109.13) and add a new listing 109.08 for children from birth to the attainment of age 6 who have diabetes mellitus (DM) and require daily insulin.

If we publish these proposed rules as final rules, we will also publish a Social Security Ruling (SSR) that will provide more detailed information about specific endocrine disorders, the types of impairments that result from endocrine disorders, and how we will determine whether people who have endocrine disorders are disabled.

Why did we decide to propose these revisions?

These proposed revisions reflect advances in medical knowledge about evaluating and treating endocrine disorders, as well as our adjudicative experience. In developing these proposed rules, we used information from a variety of sources, including:

- Medical experts in the field of endocrinology, experts in other related fields, advocacy groups for people with DM, and people with endocrine disorders and their families;
- People who make disability determinations and decisions for us in State agencies and in our Office of Disability Adjudication and Review; and
- The published sources we list in the References section at the end of this preamble.

We received some of this information from public comments that responded to an ANPRM that we published in the **Federal Register** on August 11, 2005. 70 FR 46792. In the ANPRM, we announced our plans to update and revise this body system, and we invited interested people and organizations to send us written comments and suggestions. We also received public comments at an outreach policy conference on ''Endocrine Disorders in the Disability Programs'' that we hosted in Atlanta, GA on November 17, 2005.[1]

Why are we proposing these revisions?

We last published final rules making comprehensive revisions to the

[1] Although we indicated in the ANPRM that we would not summarize or respond to the comments, we read and considered them carefully. You can read the ANPRM and the comments and suggestions we received at: *https://s044a90.ssa.gov/apps10/erm/rules.nsf/5da82b031a6677dc85256b41006b7f8d/6c2a08af38f947cd8525705a006cddf9!OpenDocument.* You can also read a transcript of the policy conference at the following link: *http://www.ssa.gov/disability/Transcript-Endocrine_Disorder_Policy_Conference.pdf.*

endocrine listings on December 6, 1985. 50 FR 50068. In the preamble to those rules, we indicated that we would periodically review and update the listings in light of medical advances in evaluating and treating endocrine disorders and our program experience. Since that time, however, we have generally only extended the effective date of the rules.[2]

When we originally published the endocrine disorders listings, we recognized that endocrine disorders could be of listing-level severity either alone or because of their effects on other body systems. Since 1985, medical science has made significant advances in detecting endocrine disorders at earlier stages, and newer treatments have resulted in better management of these conditions. For example:

- Pituitary gland disorders that suppress the production of antidiuretic hormones (current adult listing 9.05 and childhood listing 109.05) are now treated with replacement vasopressin (also called ''antidiuretic hormone,'' or ADH), which prevents diuresis (increased excretion of urine) and dehydration;
- Modern tests for hyperfunction of the adrenal cortex are more sensitive and accurate than the test required by current listing 109.06A, and provide better information for evaluating and controlling the symptoms and complications associated with this disorder; and
- Hormone deficiencies that affect the adrenal gland's ability to produce cortisol and aldosterone (current adult listing 9.06 and childhood listings 109.07 and 109.11) are now treated with replacement drugs that control adrenal gland disorders.

Because of advances in medical treatment and detection, most endocrine disorders do not reach listing-level severity because they do not become sufficiently severe or do not remain at a sufficient level of severity long enough to meet our 12-month duration requirement. This is true even for people who have recurrent episodes of hypoglycemia or of diabetic acidosis (also called diabetic ketoacidosis, or DKA), a serious outcome of uncontrolled blood glucose levels. Current listings 9.08B and 109.08A, which provide criteria for people who have recurrent episodes of DKA, and listing 109.08B, which provides a criterion for children who have recurrent episodes of hypoglycemia, reflect an earlier view that people with wide fluctuations in their blood glucose levels had uncontrollable DM. We consulted with endocrinologists, diabetologists, and other medical experts who treat DM, and they indicated that the current listings reflect only inadequate glucose regulation. The information we obtained from these experts and relevant medical references demonstrates that adequate glucose regulation is achievable with improved treatment options, such as a wider range of insulin products.

For these reasons, we believe that, with one exception, we should no longer have listings in sections 9.00 and 109.00 based on endocrine disorders alone, and we are proposing to remove all such current endocrine listings. The sole exception is for children under age 6 who have DM and require daily insulin. These children present a unique situation for which we are proposing a new listing, as we explain below.

Many of the current listings in the endocrine system are ''reference listings''—listings that are met by satisfying the criteria of other listings. Endocrine glands regulate the functioning of organs and other glands, and endocrine disorders can cause problems that are of listing-level severity and that meet the duration requirement when they affect those organs or other glands. We evaluate these effects under other body system listings.[3] For example, DM can lead to:

- Growth impairment in children, which we evaluate under the growth disorders listings in section 100.00;
- Amputations, which we evaluate under the musculoskeletal disorders listings in sections 1.00 and 101.00;
- Visual disorders, which we evaluate under the special senses and speech listings in sections 2.00 and 102.00;
- Cardiovascular disease, which we evaluate under the cardiovascular disorders listings in sections 4.00 and 104.00;
- Kidney disease, which we evaluate under the genitourinary disorders listings in sections 6.00 and 106.00;
- Neuropathies, which we evaluate under the neurological disorders listings in sections 11.00 and 111.00; and
- Clinical depression, which we evaluate under the mental disorders listings in sections 12.00 and 112.00.

The reference listings in sections 9.00 and 109.00 simply cross-refer to the listings in other body systems appropriate for these impairments. For example, current listing 9.08C, for DM with retinitis proliferans (a visual disorder), cross-refers to listing 2.02, 2.03, or 2.04 in the special senses and speech body system. Listing 9.08C is redundant because we evaluate the visual effects of retinitis proliferans using listing 2.02, 2.03, or 2.04.[4] We do not need any of the reference listings for endocrine disorders and we propose to remove them all. We have been removing reference listings from all of the body systems as we revise them, and the changes we are proposing in this NPRM are consistent with that approach.[5]

We considered whether we could propose revised criteria for the endocrine disorder listings instead of proposing to remove them all. We decided not to propose such criteria for two reasons. First, because the effects of the impairments vary too widely, we would not have been able to conclude that all people whose endocrine disorders met one of the alternative listings we considered would be unable to perform any gainful activity, the standard of severity we require for a listing. Second, some of the alternative listings we considered were so severe that people whose endocrine disorders would have met those criteria would also have impairments that met listings in other body systems. Therefore, such listings would have been unnecessary.

Why are we proposing to include guidance for evaluating endocrine disorders in sections 9.00 and 109.00 when there would be no endocrine disorders listings other than proposed listing 109.08?

Each body system is organized in two parts: an introduction, followed by specific listings. Sections 404.1525(c) and 416.925(c). In proposed section 9.00 (the adult listings), however, we are providing only the introduction in order to explain how we evaluate endocrine

[2] We published revisions to specific listings on July 2, 1993, August 24, 1999, and April 24, 2002. 58 FR 36008, 64 FR 46122, and 67 FR 20018. However, these revisions were not comprehensive. The current listings will no longer be effective as of July 1, 2010, unless we extend them. 73 FR 31025.

[3] Some endocrine cancers result in death because of their direct effects on endocrine glands. We account for such impairments in the malignant neoplastic diseases sections of our listings, sections 13.00 and 113.00.

[4] There are currently five reference listings in the endocrine system for adults and twelve reference listings in the endocrine system for children—9.02, 9.03B, 9.04C, 9.06, 9.08C, 109.02B2, 109.04B, 109.05C, 109.08C, 109.08D, 109.09B, 109.09C, 109.09D, 109.09E, 109.10, 109.11C, and 109.13. Eight of twelve childhood reference listings refer to listing 100.002A or B in the growth disorders listings, including listing 109.13, which refers to the criteria in ''the appropriate body system.'' Current adult listing 9.08A, although not technically a reference listing, contains identical criterion for peripheral neuropathy as in listing 11.14 in the neurological body system.

[5] Examples of such recent changes include the ''Revised Medical Criteria for Evaluating Digestive Disorders,'' 72 FR 59398 (October 19, 2007), and the ''Revised Medical Criteria for Evaluating Immune System Disorders,'' 73 FR 14570 (March 18, 2008).

disorders and the impairments they may cause. We are not providing any specific listing criteria.[6]

We are proposing similar guidance in the introductory text of section 109.00 in the childhood endocrine listings. We also provide guidance on how we would evaluate disability claims for children whose DM does not meet proposed listing 109.08. We do not include guidance for evaluating the long-term complications of DM related to chronic hyperglycemia, as we do for adults in proposed section 9.00B5, because such complications are rare in children.

As we explain in the proposed sections 9.00C and 109.00D, endocrine-related impairments that do not meet or medically equal any listing may nonetheless result in a finding of disability for both adults and children. We may find adults to be disabled based on their residual functional capacity, age, education, and work experience. Sections 404.1520(g) and 416.920(g). We may find children who apply for SSI benefits to be disabled based on impairments that functionally equal the listings. Sections 416.924(d) and 416.926a.

Why are we proposing new listing 109.08 for children from birth to the attainment of age 6 who have DM and require daily insulin?

Careful monitoring of blood glucose levels is crucial to the health and survival of both adults and children with DM. Children under age 6 who have DM and require daily insulin to regulate glucose present a unique situation because they generally have not developed adequate cognitive capacity for recognizing and responding to hypoglycemic symptoms. To ensure the child's survival, an adult must monitor and supervise the child's insulin, food intake, and physical activity 24 hours a day to control the child's blood glucose level. This degree of help satisfies the fifth example of functional equivalence in the last paragraph of our functional equivalence regulation: the requirement for 24-hour-a-day supervision of a child for medical reasons. Section 416.926a(m)(5). Since listings are rules that we use to find disability in all people whose impairments meet their criteria, and since under functional equivalence example 5 all children under age 6 who have DM and require daily insulin are disabled, we believe it is simpler to provide a listing for these children.

Why are we not proposing a listing for children age 6 and older who have DM and require daily insulin, and how will we evaluate children of any age with DM who do not require daily insulin?

We are not proposing a listing for children age 6 and older who have DM and require daily insulin because many of these children do not have the same medical need for adult help as younger children. Generally, children develop the cognitive awareness needed to recognize the symptoms of hypoglycemia and to seek help by age 6. As they mature, they should also be able to increasingly take part in self-care activities, such as:

- Participating in blood glucose testing;
- Self-administering insulin;
- Interpreting blood glucose testing results;
- Determining proper dosages of multiple types of insulin;
- Following special diets and schedules for snacks and meals;
- Understanding the importance of engaging in recommended physical activities;
- Managing adjustments of insulin dosing and fluid intake in response to fluctuating glucose levels during acute illness; and
- Recognizing the importance of maintaining desirable glucose levels to prevent later complications.

Some of the children age 6 and older who have DM and require daily insulin will have impairments resulting from their DM that meet or medically equal listings in other body systems. Others will need the same level of help with their DM as children under age 6. We will find that those children have impairments that functionally equal the listings because they satisfy the functional equivalence example of a requirement for 24-hour-a-day supervision for medical reasons. Other children who do not need this level of help will nevertheless have impairments that functionally equal the listings pursuant to our rules for evaluating disability in children. Sections 416.926a and 416.924a.

The same is true for DM in a child of any age (that is, from birth to age 18) who does not require daily insulin. We will consider any impairment resulting from DM under the appropriate listing criteria in any affected body system. If the child's impairment or combination of impairments does not meet or medically equal a listing in any body system, we will determine whether the impairment(s) functionally equals the listings. Sections 416.924a and 416.926a.

Would our proposal to remove endocrine listings affect people who are already receiving benefits based on endocrine disorders?

If these rules become final, we will not terminate any person's disability benefits solely because we have removed any endocrine disorder listing, nor will we review prior allowances based on the endocrine disorders listings under the new rules. Unless we are otherwise required to do so (for example, by statute), we do not readjudicate previously decided cases when we revise our listings. We must periodically conduct continuing disability reviews to determine whether beneficiaries are still disabled. Sections 404.1589 and 416.989. When we do, we will not find that a person's disability has ended based on a change in a listing. In most cases, we must show that the person's impairment(s) has medically improved and that any medical improvement is ''related to the ability to work.'' Sections 404.1594 and 416.994. Even where the impairment(s) has medically improved, our regulations provide that the improvement is not ''related to the ability to work'' if it continues to meet or medically equal the ''same listing section used to make our most recent favorable decision.'' This is true even if we have deleted the listing section we used to make the most recent favorable decision. Sections 404.1594(c)(3)(i) and 416.994(b)(2)(iv)(A).[7] When we find that medical improvement is not related to the ability to work (or, in the case of a person under age 18, the impairment still meets or medically equals the prior listing), we will find that disability continues, unless an exception to medical improvement applies.

What is our authority to make rules and set procedures for determining whether a person is disabled under the statutory definition?

Under the Act, we have full power and authority to make rules and regulations and to establish necessary and appropriate procedures to carry out such provisions. Sections 205(a), 702(a)(5), and 1631(d)(1).

How long would these proposed rules be effective?

If we publish these proposed rules as final rules, they will remain in effect for 8 years after the date they become effective, unless we extend them, or revise and issue them again.

[6] We are proposing minor changes in our regulations to reflect this change. Sections 404.1525 and 416.925.

[7] Our regulations contain a similar provision for continuing disability reviews for children eligible for SSI based on disability. See § 416.994a(b)(2).

Clarity of These Rules

Executive Order 12866 requires each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make them easier to understand.

For example:

- Would more, but shorter, sections be better?
- Are the requirements in the rules clearly stated?
- Have we organized the material to suit your needs?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?
- Do the rules contain technical language or jargon that is not clear?
- Would a different format make the rules easier to understand, e.g. grouping and order of sections, use of headings, paragraphing?

When Will We Start To Use These Rules?

We will not use these rules until we evaluate public comments and publish final rules in the **Federal Register.** All final rules we issue include an effective date. We will continue to use our current rules until that date. If we publish final rules, we will include a summary of those relevant comments we received along with responses and an explanation of how we will apply the new rules.

Regulatory Procedures

Executive Order 12866

Note to reviewers: *This is a placeholder while we await program estimates.* We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules meet the requirements for a significant regulatory action under Executive Order 12866 and were subject to OMB review.

Regulatory Flexibility Act

We certify that these proposed rules would not have a significant economic impact on a substantial number of small entities because they affect only individuals. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

These proposed rules do not create any new or affect any existing collections and, therefore, do not require Office of Management and Budget approval under the Paperwork Reduction Act.

References

We consulted the following references when we developed these proposed rules:

Anderson, Barbara and Richard L. Rubin, *Practical Psychology for Diabetes Clinicians: Effective Techniques for Key Behavioral Issues, 2nd Edition,* McGraw-Hill, New York (2003).

Becker, Dorothy J. and Christopher M. Ryan, ''Hypoglycemia in Children with Type 1 Diabetes Mellitus: Risk Factors, Cognitive Function, and Management,'' *Endocrinology and Metabolism Clinics,* Vol. 28, Issue 4, 883–900 (December 1999), available at: *http://www.mdconsult.com/das/article/body/94692077–2/jorg=journal&source=&sp=11158267&sid=0/N/158829/1.html.*

Cooke, David W. and Leslie Plotnick, ''Management of Diabetic Ketoacidosis in Children and Adolescents,'' *Pediatrics in Review, Pediatr. Rev.* 2008; 29; 431–436, available at: *http://pedsinreview.aappublications.org/cgi/content/full/29/12/431.*

Cooke, David W. and Leslie Plotnick, ''Type 1 Diabetes Mellitus in Pediatrics,'' *Pediatrics in Review, Pediatr. Rev.* 2008; 29; 374–385, available at: *http://pedsinreview.aappublications.org/cgi/content/full/29/11/374.*

Cowell, Kristi M., ''Focus on Diagnosis: Type 2 Diabetes Mellitus,'' *Pediatrics in Review, Pediatr. Rev.* 2008; 29; 289–292, available at: *http://pedsinreview.aappublications.org/cgi/content/full/29/8/289.*

Feld, Stanley, ''Medical Guidelines for the Management of Diabetes Mellitus: The AACE System of Intensive Diabetes Self Management—2002 Update,'' The American Association of Clinical Endocrinologists, *Endocrine Practice,* Vol. 8, Supplement, (January/February 2002), available at: *http://www.gata.edu.tr/dahilibilimler/nefroloji/dosyalar/diabetes_2002.pdf.*

Johns Hopkins Hospital, ''Type 2 Diabetes Drug Boom: Is Newer Better?'' *The Johns Hopkins Medical Letter: Health After 50,* Vol. 19, No. 6 (August 2007).

Kasper, D., Endocrinology and Metabolism, *Harrison's Principles of Internal Medicine, 16th Edition,* 2088–2299, McGraw-Hill Professional, New York (2004).

Kliegman, Robert M., Richard E. Behrman, Hal B. Jensen, and Bonita F. Stanton, ''The Endocrine System,'' *Nelson Textbook of Pediatrics, 18th Edition,* WB Saunders Co., Philadelphia, PA (2004).

Silverstein, Janet, *et al.,* ''Care of Children and Adolescents with Type 1 Diabetes,'' *Diabetes Care,* Vol. 28, No. 1, 186–212, American Diabetes Association, Inc., Alexandria, VA (January 2005), available at: *http://care.diabetesjournals.org/cgi/reprint/28/1/186.*

Social Security Administration, ''Endocrine Disorders in the Disability Programs.'' Transcript of conference held in Atlanta, GA, November 17, 2005, available at: *http://www.ssa.gov/disability/Transcript-Endocrine_Disorder_Policy_Conference.pdf.*

Sperling, Mark A., guest editor, ''Diabetes Mellitus in Children,'' *Pediatric Clinics of North America,* Vol. 52, No. 6, 1533–1872 (December 2005), available at: *http://www.mdconsult.com/das/article/body/94692077-4/jorg=journal&source=&sp=15876443&sid=0/N/505590/1.html?issn=0031-3955&issue_id=17939.*

Taras, Howard L., ''The Role of the School Nurse in Providing School Health Services,'' Committee on School Health, American Academy of Pediatrics, *Pediatrics,* Vol. 108, No. 5, 1231–1232 (November 2001), available at: *http://aappolicy.aappublications.org/cgi/reprint/pediatrics;108/5/1231.pdf.*

We will make these references available to you for inspection if you are interested in reading them. Please make arrangements with the contact person shown in this preamble if you would like to review any reference materials.

(Catalog of Federal Domestic Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance, and 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure; Blind, Disability benefits; Old-age, Survivors, and Disability Insurance; Reporting and recordkeeping requirements; Social Security.

20 CFR Part 416

Administrative practice and procedure; Blind; Disability benefits; Old age, Public assistance programs; Reporting and recordkeeping requirements; Supplemental Security Income (SSI).

Dated: September 10, 2009.

Michael J. Astrue,

Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend 20 CFR part 404 subpart P and part 416 subpart I as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

1. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189; sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

2. Amend § 404.1525 by revising paragraph (c)(1) and the first sentence of paragraph (c)(3) to read as follows:

§ 404.1525 Listing of impairments in appendix 1.

* * * * *

(c) *How do we use the listings?* (1) Most body system sections in parts A and B of appendix 1 are in two parts: An introduction, followed by the specific listings.

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(3) In most cases, the specific listings follow the introduction in each body system, after the heading, *Category of Impairments.* * * *

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3. Amend appendix 1 to subpart P of part 404 by:

a. Revising item 10 of the introductory text before part A;

b. Revising the body system name for section 9.00 in the Part A table of contents;

c. Revising section 9.00 in part A;

d. Removing sections 9.01 through 9.08;

e. Revising the body system name for section 109.00 in the Part B table of contents; and

f. Revising section 109.00 in part B.

The revisions read as follows:

Appendix 1 to Subpart P of Part 404—Listing of Impairments

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10. Endocrine Disorders (9.00 and 109.00): [DATE 8 YEARS FROM THE EFFECTIVE DATE OF THE FINAL RULES].

* * * * *

Part A

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9.00 Endocrine Disorders.

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9.00 Endocrine Disorders

A. *What is an endocrine disorder?*

An endocrine disorder is a medical condition that causes a hormonal imbalance. When an endocrine gland functions abnormally, producing either too much of a specific hormone (hyperfunction) or too little (hypofunction), the hormonal imbalance can cause various complications in the body. The major glands of the endocrine system are the pituitary, thyroid, parathyroid, adrenal, and pancreas.

B. *How do we evaluate the effects of endocrine disorders?* We evaluate impairments that result from endocrine disorders under the listings for other body systems. For example:

1. *Pituitary gland disorders* can disrupt hormone production and normal functioning in other endocrine glands and in many body systems. The effects of pituitary gland disorders vary depending on which hormones are involved. For example, when pituitary hypofunction affects water and electrolyte balance in the kidney and leads to diabetes insipidus, we evaluate the effects of recurrent dehydration under 6.00.

2. *Thyroid gland disorders* affect the body's sympathetic nervous system and normal metabolism. We evaluate thyroid-related changes in blood pressure and heart rate that cause arrhythmias or other cardiac dysfunction under 4.00; thyroid-related weight loss under 5.00; hypertensive cerebrovascular accidents (strokes) under 11.00; and cognitive limitations, mood disorders, and anxiety under 12.00.

3. *Parathyroid gland disorders* affect calcium levels in bone, blood, nerves, muscle, and other body tissues. We evaluate parathyroid-related osteoporosis and fractures under 1.00; abnormally elevated calcium levels in the blood (hypercalcemia) that lead to cataracts under 2.00; kidney failure under 6.00; and recurrent abnormally low blood calcium levels (hypocalcemia) that lead to increased excitability of nerves and muscles, such as tetany and muscle spasms, under 11.00.

4. *Adrenal gland disorders* affect bone calcium levels, blood pressure, metabolism, and mental status. We evaluate adrenal-related osteoporosis with fractures that compromises the ability to walk or to use the upper extremities under 1.00; adrenal-related hypertension that worsens heart failure or causes recurrent arrhythmias under 4.00; adrenal-related weight loss under 5.00; and mood disorders under 12.00.

5. *Diabetes mellitus and other pancreatic gland disorders* disrupt the production of several hormones, including insulin, that regulate metabolism and digestion. Insulin is essential to the absorption of glucose from the bloodstream into body cells for conversion into cellular energy. The most common pancreatic gland disorder is *diabetes mellitus* (DM). There are two major types of DM: Type 1 and type 2. Type 1 DM—previously known as ''juvenile diabetes'' or ''insulin-dependent diabetes mellitus'' (IDDM)—is an absolute deficiency of insulin production that commonly begins in childhood and continues throughout adulthood. Treatment of type 1 DM always requires lifelong daily insulin. With type 2 DM—previously known as ''adult-onset diabetes mellitus'' or ''non-insulin-dependent diabetes mellitus'' (NIDDM)—the body's cells resist the effects of insulin, impairing glucose absorption and metabolism. Treatment of type 2 DM generally requires lifestyle changes, such as increased exercise and dietary modification, and sometimes insulin in addition to other medications.

a. *Hyperglycemia.* Both types of DM cause hyperglycemia, which is an abnormally high level of blood glucose that may produce acute and long-term complications. Acute complications of hyperglycemia include diabetic ketoacidosis. Long-term complications of DM are related to chronic hyperglycemia.

i. *Diabetic ketoacidosis (DKA).* DKA is a potentially life-threatening complication of DM in which the chemical balance of the body becomes dangerously hyperglycemic and acidic. It is an acute condition resulting from a severe insulin deficiency, which can occur due to missed or inadequate daily insulin therapy, or in association with an acute illness. It usually requires hospital treatment to correct the acute complications of dehydration, electrolyte imbalance, and insulin deficiency. You may have serious complications resulting from your treatment, which we evaluate under the affected body system. For example, we evaluate cardiac arrhythmias under 4.00, intestinal necrosis under 5.00, and cerebral edema and seizures under 11.00. Recurrent episodes of DKA may result from mood or eating disorders, which we evaluate under 12.00.

ii. *Chronic hyperglycemia.* Chronic hyperglycemia, which is longstanding abnormally high levels of blood glucose, leads to long-term diabetic complications by disrupting nerve and blood vessel functioning. This disruption can have many different effects in other body systems. For example, we evaluate diabetic peripheral neurovascular disease that leads to gangrene and subsequent amputation of an extremity under 1.00; diabetic retinopathy under 2.00; coronary artery disease and peripheral vascular disease under 4.00; diabetic gastroparesis that results in abnormal gastrointestinal motility under 5.00; diabetic nephropathy under 6.00; poorly healing bacterial and fungal skin infections under 8.00; diabetic peripheral and sensory neuropathies under 11.00; and cognitive impairments, depression, and anxiety under 12.00.

b. *Hypoglycemia.* People with DM may experience episodes of hypoglycemia, which is an abnormally low level of blood glucose. Most adults recognize the symptoms of hypoglycemia and reverse them by consuming substances containing

glucose. Severe hypoglycemia can lead to complications, including seizures or loss of consciousness, which we evaluate under 11.00, or altered mental status and cognitive deficits, which we evaluate under 12.00.

C. *How do we evaluate endocrine disorders that do not have effects that meet or medically equal the criteria of any listing in other body systems?* If your impairment(s) does not meet or medically equal a listing in another body system, you may or may not have the residual functional capacity to engage in substantial gainful activity. In this situation, we proceed to the fourth and, if necessary, the fifth steps of the sequential evaluation process in §§ 404.1520 and 416.920. When we decide whether you continue to be disabled, we use the rules in §§ 404.1594, 416.994, and 416.994a.

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Part B

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109.00 Endocrine Disorders.

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109.00 Endocrine Disorders

A. *What is an endocrine disorder?*

An endocrine disorder is a medical condition that causes a hormonal imbalance. When an endocrine gland functions abnormally, producing either too much of a specific hormone (hyperfunction) or too little (hypofunction), the hormonal imbalance can cause various complications in the body. The major glands of the endocrine system are the pituitary, thyroid, parathyroid, adrenal, and pancreas.

B. *How do we evaluate the effects of endocrine disorders?* The only listing in this body system addresses children from birth to the attainment of age 6 who have diabetes mellitus (DM) and require daily insulin. We evaluate other impairments that result from endocrine disorders under the listings for other body systems. For example:

1. *Pituitary gland disorders* can disrupt hormone production and normal functioning in other endocrine glands and in many body systems. The effects of pituitary gland disorders vary depending on which hormones are involved. For example, when pituitary growth hormone deficiency in growing children limits bone maturation and results in pathological short stature, we evaluate under 100.00. When pituitary hypofunction affects water and electrolyte balance in the kidney and leads to diabetes insipidus, we evaluate the effects of recurrent dehydration under 106.00.

2. *Thyroid gland disorders* affect the body's sympathetic nervous system and normal metabolism. We evaluate thyroid-related changes in linear growth under 100.00; thyroid-related changes in blood pressure and heart rate that cause cardiac arrhythmias or other cardiac dysfunction under 104.00; thyroid-related weight loss under 105.00; and cognitive limitations, mood disorders, and anxiety under 112.00.

3. *Parathyroid gland disorders* affect calcium levels in bone, blood, nerves, muscle, and other body tissues. We evaluate parathyroid-related osteoporosis and fractures under 101.00; abnormally elevated calcium levels in the blood (hypercalcemia) that lead to cataracts under 102.00; kidney failure under 106.00; and recurrent abnormally low blood calcium levels (hypocalcemia) that lead to increased excitability of nerves and muscles, such as tetany and muscle spasms, under 111.00.

4. *Adrenal gland disorders* affect bone calcium levels, blood pressure, metabolism, and mental status. We evaluate adrenal-related linear growth impairments under 100.00; adrenal-related osteoporosis with fractures that compromises the ability to walk or to use the upper extremities under 101.00; adrenal-related hypertension that worsens heart failure or causes recurrent arrhythmias under 104.00; adrenal-related weight loss under 105.00; and mood disorders under 112.00.

5. *Diabetes mellitus and other pancreatic gland disorders* disrupt the production of several hormones, including insulin, that regulate metabolism and digestion. Insulin is essential to the absorption of glucose from the bloodstream into body cells for conversion into cellular energy. The most common pancreatic gland disorder is *diabetes mellitus* (DM). There are two major types of DM: type 1 and type 2. Type 1 DM—previously known as ''juvenile diabetes'' or ''insulin-dependent diabetes mellitus'' (IDDM)—is an absolute deficiency of insulin secretion that commonly begins in childhood and continues throughout adulthood. Treatment of type 1 DM always requires lifelong daily insulin. With type 2 DM—previously known as ''adult-onset diabetes mellitus'' or ''non-insulin-dependent diabetes mellitus'' (NIDDM)—the body's cells resist the effects of insulin, impairing glucose absorption and metabolism. Although less common than type 1 DM in children, type 2 DM is increasingly being diagnosed prior to age 18. Treatment of type 2 DM generally requires lifestyle changes, such as increased exercise and dietary modification, and sometimes insulin in addition to other medications.

a. *Hyperglycemia.* Both types of DM cause hyperglycemia, which is an abnormally high level of blood glucose that may produce acute and long-term complications. Acute complications of hyperglycemia include diabetic ketoacidosis. Long-term complications of DM are related to chronic hyperglycemia, but are rare in children.

b. *Diabetic ketoacidosis (DKA).* DKA is a potentially life-threatening complication of DM in which the chemical balance of the body becomes dangerously hyperglycemic and acidic. It is an acute condition resulting from a severe insulin deficiency, which can occur due to missed or inadequate daily insulin therapy, or in association with acute illness. It usually requires hospital treatment to correct the acute complications of dehydration, electrolyte imbalance, and insulin deficiency. You may have serious complications resulting from your treatment, which we evaluate under the affected body system. For example, we evaluate cardiac arrhythmias under 104.00, intestinal necrosis under 105.00, and cerebral edema and seizures under 111.00. Recurrent episodes of DKA in adolescents may result from mood or eating disorders, which we evaluate under 112.00.

c. *Hypoglycemia.* Children with DM may experience episodes of hypoglycemia, which is an abnormally low level of blood glucose. Most children age 6 and older recognize the symptoms of hypoglycemia and reverse them by consuming substances containing glucose. Severe hypoglycemia can lead to complications, including seizures or loss of consciousness, which we evaluate under 111.00, or altered mental status, cognitive deficits, and permanent brain damage, which we evaluate under 112.00.

C. *How do we evaluate DM in children?*

Listing 109.08 is only for children with DM who have not attained age 6 and who require daily insulin. For all other children (that is, children with DM who are age 6 or older and require daily insulin, and children of any age with DM who do not require daily insulin), we determine if an impairment that results from DM, or a combination of impairments, meets or medically equals the criteria of a listing in another body system, or functionally equals the listings under the criteria in § 416.926a, considering the factors in § 416.924a. For example, a child age 6 or older who has a medical need for 24-hour-a-day adult supervision of insulin treatment, food intake, and physical activity to ensure survival will have an impairment

that functionally equals the listings based on the example in § 416.926a(m)(5).

D. *How do we evaluate other endocrine disorders that have effects that do not meet or medically equal the criteria of any listing in other body systems?* If your impairment(s) does not meet or medically equal a listing in another body system, we will consider whether your impairment(s) functionally equals the listings under the criteria in § 416.926a, considering the factors in § 416.924a. When we decide whether you continue to be disabled, we use the rules in § 416.994a.

109.01 *Category of Impairments, Endocrine.*

109.08 *Any type of diabetes mellitus in a child who requires daily insulin and has not attained age 6.* Consider under a disability until the attainment of age 6. Thereafter, evaluate the diabetes mellitus according to the rules in 109.00B5 and C.

* * * * *

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

4. The authority citation for subpart I of part 416 continues to read as follows:

Authority: Secs. 221(m), 702(a)(5), 1611, 1614, 1619, 1631(a), (c), (d)(1), and (p) and 1633 of the Social Security Act (42 U.S.C. 421(m), 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), (d)(1), and (p), and 1383(b); secs. 4(c) and 5, 6(c)–(e), 14(a), and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, and 1382h note).

5. Amend § 416.925 by revising paragraph (c)(1) and the first sentence of paragraph (c)(3) to read as follows:

§ 416.925 Listing of impairments in appendix 1 of subpart P of part 404 of this chapter.

* * * * *

(c) *How do we use the listings?* (1) Most body system sections in parts A and B of appendix 1 are in two parts: an introduction, followed by the specific listings.

* * * * *

(3) In most cases, the specific listings follow the introduction in each body system, after the heading, *Category of Impairments.* * * *

* * * * *

[FR Doc. E9–29671 Filed 12–11–09; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA–2009–0040]

RIN 0960–AF80

Revised Procedures and Criteria for Payment of Vocational Rehabilitation Services Under the Cost Reimbursement Program

AGENCY: Social Security Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: We are requesting your comments on whether and how we should revise our rules governing payment for vocational rehabilitation (VR) services under the cost reimbursement program. Our current regulations do not reflect programmatic changes resulting from the new regulations we issued in May of 2008 for the Ticket to Work and Self-Sufficiency Program (Ticket to Work program). We are requesting your comments as part of our ongoing effort to ensure that the regulations governing cost reimbursement for VR services are current and support our other return to work programs, specifically the Ticket to Work and Work Incentive programs. If we propose specific revisions, we will publish a Notice of Proposed Rulemaking in the **Federal Register.**

DATES: To ensure that we consider your comments, we must receive them no later than February 12, 2010.

ADDRESSES: You may submit comments by any one of three methods—Internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA–2009–0040 so that we may associate your comments with the correct regulation.

Caution: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. *Internet:* We strongly recommend this method for submitting your comments. Visit the Federal eRulemaking portal at *http://www.regulations.gov.* Use the *Search* function of the webpage to find docket number SSA–2009–0040, then submit your comment. Once you submit your comment, the system will issue you a tracking number to confirm your submission. You will not be able to view your comment immediately as we must manually post each comment. It may take up to a week for your comment to be viewable.

2. *Fax:* Fax comments to (410) 966–2830.

3. *Mail:* Mail your comments to the Office of Regulations, Social Security Administration, 137 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

Comments are available for public viewing on the Federal eRulemaking portal at *http://www.regulations.gov* or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Brian Rudick, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–7105. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at *http://www.gpoaccess.gov/fr/index.html.*

What Is The Purpose of This Advance Notice of Proposed Rulemaking (ANPRM)?

This ANPRM gives you an opportunity to provide input concerning whether and how we might revise our procedures and criteria for payments to State VR agencies for VR services provided to disability beneficiaries under the cost reimbursement system. The regulations governing State VR agency cost reimbursement are found in 20 CFR part 404, subpart V, and part 416, subpart V. We last published rules for this program in the **Federal Register** on July 7, 2003. We are publishing this ANPRM as part of our ongoing effort to ensure that our criteria are effective and provide accurate guidance regarding the connection between the VR cost reimbursement and Ticket to Work programs.

On Which Rules Are We Inviting Comments?

We are interested in any comments and suggestions you have about how we should revise 20 CFR part 404, subpart V, and part 416, subpart V. You can find the current rules for the cost reimbursement program on the Internet at the following locations:

http://www.access.gpo.gov/nara/cfr/waisidx_09/20cfr404_09.html
http://www.access.gpo.gov/nara/cfr/waisidx_09/20cfr416_09.html.

Who Should Send Us Comments and Suggestions?

We invite comments and suggestions from people who have an interest in the rules we use to administer the VR cost reimbursement program, people who apply for or receive benefits from us, members of the general public, State VR agencies, advocates and organizations who represent parties interested in cost reimbursement and the Ticket to Work programs, and others.

What Should You Comment About?

We issued initial Ticket to Work program regulations on December 23, 2001 (66 FR 67369). On May 20, 2008, we published amendments to those rules based on our experience administering the Ticket to Work program (73 FR 29324). While those rules simplified the program and made it more attractive to beneficiaries and potential service providers, we have not yet fully updated the regulations governing the VR cost reimbursement program to complement the Ticket to Work program.

In advance of proposing regulatory changes to the VR cost reimbursement program, we would like your general comments, as well as comments on a few specific issues. These specific issues include:

1. What changes to the VR cost reimbursement regulations might we consider to make them work more effectively with the Ticket to Work program?

2. Is the list of services for which payment may be made, found at 20 CFR 404.2114 and 416.2214, adequate and comprehensive? If not, what changes to the list of allowable services should we consider?

3. Under the Ticket to Work program, our rules discount payments to an EN when it accepts a ticket assignment for job retention services for a beneficiary who is a former VR agency client and was working when the VR agency closed the VR case. 20 CFR 411.585. Our reimbursement rules do not cover the reverse situation: when the EN is the first provider and the VR agency later provides job retention or career advancement services. How should we avoid duplicate payments for the same services while ensuring that individuals get the services they need to maximize opportunities for employment?

4. Benefits planners (including those with the Work Incentives Planning and Assistance organizations) provide information to beneficiaries with disabilities regarding the effect of earnings on many types of benefits. We would appreciate your comments about how benefits planning can become a more central part of a beneficiary's participation in the VR process.

Will We Respond to Your Comments From This Notice?

We will not respond directly to comments you send in response to this ANPRM. After we have considered all comments and suggestions as well as what we have learned from our program experience administering the cost reimbursement option under the Ticket to Work program, we will determine whether and how we should revise our regulations. If we decide to propose specific revisions, we will publish a Notice of Proposed Rulemaking in the **Federal Register,** and you will have a chance to comment on the revisions we propose.

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-age, Survivors, and Disability insurance, Reporting and recordkeeping requirements, Social Security, Vocational rehabilitation.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI), Vocational rehabilitation.

Dated: November 9, 2009.

Michael J. Astrue,

Commissioner of Social Security.

[FR Doc. E9–29669 Filed 12–11–09; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

22 CFR Part 22

[Public Notice: 6851]

RIN: 1400–AC57

Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates

AGENCY: Bureau of Consular Affairs, State.

ACTION: Proposed rule.

SUMMARY: This rule amends the Schedule of Fees for Consular Services (Schedule) for nonimmigrant visa application and border crossing card processing fees. The rule raises from $131 to $140 the fee charged for the processing of an application for most non-petition-based nonimmigrant visas (Machine-Readable Visas or MRVs) and adult Border Crossing Cards (BCCs). The rule also provides new application fees for certain categories of petition-based nonimmigrant visas and treaty trader and investor visas (all of which are also MRVs). Finally, the rule increases the $13 BCC fee charged to Mexican citizen minors who apply in Mexico, and whose parent or guardian already has a BCC or is applying for one, by raising that fee to $14 by virtue of a congressionally mandated surcharge that goes into effect this year. The Department of State is adjusting the fees to ensure that sufficient resources are available to meet the costs of providing consular services in light of an independent cost of service study's findings that the U.S. Government is not fully covering its costs for the processing of these visas under the current cost structure.

DATES: Written comments must be received on or before 60 days from the date of publication in the **Federal Register**.

ADDRESSES: Interested parties may contact the Department by any of the following methods:

- Persons with access to the Internet may view this notice and submit comments by going to the regulations.gov Web site at: *http://www.regulations.gov/index.cfm.*
- *Mail (paper, disk, or CD–ROM):* U.S. Department of State, Office of the Executive Director, Bureau of Consular Affairs, U.S. Department of State, Suite H1001, 2401 E Street, NW., Washington, DC 20520.
- *E-mail: fees@state.gov.* You must include the RIN (*1400–AC57*) in the subject line of your message.

FOR FURTHER INFORMATION CONTACT: Amber Baskette, Office of the Executive Director, Bureau of Consular Affairs, Department of State; phone: 202–663–3923, telefax: 202–663–2599; e-mail: *fees@state.gov*.

SUPPLEMENTARY INFORMATION:

Background

What Is the Authority for This Action?

The Department of State derives the general authority to set the amount of fees for the consular services it provides, and to charge those fees, from the general user charges statute, 31 U.S.C. 9701. *See, e.g.*, 31 U.S.C. 9701(b)(2)(A) (''The head of each agency * * * may prescribe regulations establishing the charge for a service or

thing of value provided by the agency * * * based on * * * the costs to the Government.''). As implemented through Executive Order 10718 of June 27, 1957, 22 U.S.C. 4219 further authorizes the Department to establish fees to be charged for official services provided by U.S. embassies and consulates. Other authorities allow the Department to charge fees for consular services, but not to determine the amount of such fees, as the amount is statutorily determined. Examples related to nonimmigrant visas include: (1) The $13 fee, discussed below, for machine-readable BCCs for certain Mexican citizen minors, Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Public Law 105–277, 112 Stat. 2681–50, Div. A, Title IV, § 410(a), (reproduced at 8 U.S.C. 1351 note); and (2) the reciprocal nonimmigrant visa issuance fee, 8 U.S.C. 1351.

A number of other statutes address specific fees and surcharges related to nonimmigrant visas. A cost-based, nonimmigrant visa processing fee for MRVs and BCCs is authorized by section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, Public Law 103–236, 108 Stat. 382, as amended, and such fees remain available to the Department until expended. *See, e.g.*, Enhanced Border Security and Visa Entry Reform Act of 2002, Public Law 107–173, 116 Stat. 543; *see also* 8 U.S.C. 1351 note (reproducing amended law allowing for retention of MRV and BCC fees). Furthermore, section 239(a) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (''Wilberforce Act'') requires the Secretary of State to collect a $1 surcharge on all MRVs and BCCs in addition to the processing fee, including on BCCs issued to Mexican citizen minors qualifying for a statutorily mandated $13 processing fee; this surcharge must be deposited into the Treasury. *See* Public Law 110–457, 122 Stat. 5044, Title II, § 239, (reproduced at 8 U.S.C. 1351 note).

The Department last changed MRV and BCC fees in an interim final rule dated December 20, 2007. 72 FR 72243. *See* Department of State Schedule for Fees and Funds, 22 CFR 22.1–22.5 Those changes to the Schedule went into effect January 1, 2008.

Why Is the Department Raising the Nonimmigrant Visa Fees at This Time?

Consistent with OMB Circular A–25 guidelines, the Department contracted for an independent cost of service study (CoSS), which used an activity-based costing model from August 2007 through June 2009 to provide the basis for updating the Schedule. The results of that study are the foundation of the current changes to the Schedule.

The CoSS concluded that the average cost to the U.S. Government of accepting, processing, adjudicating, and issuing a non-petition-based MRV application, including an application for a BCC, is approximately $136.37 for Fiscal Year 2010. (The only exception is the non-petition-based E category visa, discussed below, for which costs are greater than $136.37.) The CoSS arrived at the $136.37 figure taking into account actual and projected costs of worldwide nonimmigrant visa operations, visa workload, and other related costs. This cost also includes the unrecovered costs of processing BCCs for certain Mexican citizen minors. That processing fee is statutorily frozen at $13, even though such BCCs cost the Department the same amount to process as all other MRVs and BCCs—that is, significantly more than $13. (As discussed below, a statutorily imposed $1 surcharge brings the total fee for Mexican citizen minor BCCs to $14.) The Department's costs beyond $13 must, by statute, be recovered by charging more for all MRVs, as well as all BCCs not meeting the requirements for the reduced fee. *See* Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Public Law 105–277, Div. A, Title IV, § 410(a)(3) (reproduced at 8 U.S.C. 1351 note) (Department ''shall set the amount of the fee [for processing MRVs and all other BCCs] at a level that will ensure the full recovery by the Department * * * of the costs of processing'' all MRVs and BCCs, including reduced cost BCCs for qualifying Mexican citizen minors).

Subsequent to the completion of data-gathering for the CoSS, the Department's Bureau of Consular Affairs decided to consolidate visa operations support services through an initiative called the Global Support Strategy (GSS) in Fiscal Year 2010. GSS consolidates in one contract costs of services currently being paid by MRV and BCC applicants to various private vendors, including appointment setting, fee collection, offsite data collection services and document delivery. The GSS contract, which will be awarded competitively, was initiated due to concerns that fees for visa services varied from country to country; the Department's intent is to charge a consistent fee worldwide to applicants for the same type of visa. Final costs for GSS are not yet known because the contract has not yet been awarded, but according to Department estimates startup costs incurred in Fiscal Year 2009 are certain to be at least $2 per application. When this additional cost is factored in along with the costs of recovering losses from the Mexican citizen minor BCC, the estimated cost to the U.S. Government of accepting, processing, and adjudicating non-petition-based MRV (except E category) and BCC applications becomes $138.37.

In addition, section 239(a) of the Wilberforce Act requires the Department to collect a fee or surcharge of $1 (''Wilberforce surcharge'') in addition to cost-based fees charged for MRVs and BCCs, to support anti-trafficking programs. See Wilberforce Act, Public Law 110–457, Title II, § 239.

Combining the $138.37 cost to the U.S. Government with the $1 Wilberforce surcharge, the Department has determined that the fee for non-petition-based MRV (except E category) and BCC applications, with the exception of certain Mexican citizen minors' BCCs statutorily set at $13, will be $140. This $140 fee will allow the Government to recover the full cost of processing these visa applications during the anticipated period of the current Schedule, and to comply with its statutory obligation to collect from applicants the $1 Wilberforce surcharge. The Department rounded up to $140 to make it easier for U.S. embassies and consulates to convert to foreign currencies, which are most often used to pay the fee.

For all applicants other than those Mexican citizen minors who qualify for the reduced fee, the BCC fee is being raised to $140 because the document, which is available to certain Mexican citizens, has almost identical processing procedures and functions for those persons in the same manner as an MRV functions for all other nonimmigrant visa applicants.

As noted above, for Mexican citizens under 15 years of age who apply for a BCC in Mexico, and have at least one parent or guardian who has a BCC or is also applying for one, the BCC fee is statutorily set at $13. *See* Consolidated and Emergency Supplemental Appropriations Act of 1999, Public Law 105–277, Div. A, Title IV, § 410(a)(1)(A) (reproduced at 8 U.S.C. 1351 note). Nevertheless, the $1 Wilberforce surcharge applies to this fee by the terms of law establishing the surcharge, which postdates Public Law 105–277, Division A, Title IV, § 410(a)(1)(A) and does not exempt it from its application. *See* Wilberforce Act, Public Law 110–457, Title II, § 239(a). Therefore, the Department must now charge $14 for this category of BCC.

In addition, the 2007–2009 CoSS found that the cost of accepting, adjudicating, and issuing MRV applications for the following categories of visas is appreciably higher than for other categories: E (treaty-trader or treaty-investor); H (temporary workers and trainees); K (fiancé(e)s and certain spouses of U.S. citizens); L (intracompany transferee); O (aliens with extraordinary ability); P (athletes, artists, and entertainers); Q (international cultural exchange visitors) and R (aliens in religious occupations). Each of these visa categories requires a review of extensive documentation and a more in-depth interview of the applicant than BCCs and other categories of MRVs. The Department has concluded that it would be more equitable to those applying for BCCs and other categories of MRVs, for which such extensive review is not necessary, to establish separate fees that more accurately reflect the cost of processing these visas. Therefore, this rule establishes the following fees for these categories corresponding to projected cost figures for the visa category as determined by the CoSS and incorporating the $1 Wilberforce surcharge (*see* Wilberforce Act, Public Law 110–457, Title II, § 239(a) (surcharge applies to all nonimmigrant MRVs)):

H, L, O, P, Q and R: $150.
E: $390.
K: $350.

The Department rounded these fees to the nearest $10 for the ease of converting to foreign currencies, which are most often used to pay the fee.

When Will the Department of State Implement This Proposed Rule?

The Department intends to implement this proposed rule, and initiate collection of the fees set forth herein, as soon as practicable following the expiration of the 60-day public comment period following this proposed rule's publication in the **Federal Register,** and after the Department has had the opportunity to fully consider any public comments received and promulgate the associated final regulation.

Regulatory Findings

Administrative Procedure Act

The Department is publishing this rule as a proposed rule, with a 60-day provision for public comments.

Regulatory Flexibility Act

The Department, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities as defined in 5 U.S.C. 601(6). This rule raises the application and processing fee for nonimmigrant visas. Although the issuance of some of these visas is contingent upon approval by DHS of a petition filed by a United States company with DHS, and these companies pay a fee to DHS to cover the processing of the petition, the visa itself is sought and paid for by an individual foreign national overseas who seeks to come to the United States for a temporary stay. The amount of the petition fees that are paid by small entities to DHS is not controlled by the amount of the visa fees paid by individuals to the Department of State. While small entities may cover or reimburse employees for application fees, the exact number of such entities that does so is unknown. Given that the increase in petition fees accounts for only 7% of the total percentage of visa fee increases, the modest 15% increase in the application fee for employment-based nonimmigrant visas is not likely to have a significant economic impact on the small entities that choose to reimburse the applicant for the visa fee.

Unfunded Mandates Act of 1995

This rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $1 million or more in any year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501–1504.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. *See* 5 U.S.C. 804(2). This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and import markets.

Executive Order 12866

OMB considers this rule to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, Sept. 30, 1993. 58 FR 51735. This rule is necessary in light of the Department of State's CoSS finding that the cost of processing non-immigrant visas has increased since the fee was last set in 2007. The Department is setting the non-immigrant visa fees in accordance with 31 U.S.C. 9701 and other applicable legal authority, as described in more detail above. *See, e.g.*, 31 U.S.C. 9701(b)(2)(A) (''The head of each agency * * * may prescribe regulations establishing the charge for a service or thing of value provided by the agency * * * based on * * * the costs to the Government.''). This regulation sets the fees for non-immigrant visas at the amount required to recover the costs associated with providing this service to foreign nationals.

Accordingly, this rule has been submitted to OMB for review.

Details of the proposed fee changes are as follows:

Item No.	Proposed fee	Current fee	Change in fee	Percentage increase	Estimated annual number of applications [1]	Estimated increase in annual fees collected [2]
21. Nonimmigrant visa application and border crossing card processing fees:						
(a) Non-petition-based category (except E category)	$140	$131	$9	7	5,499,494	$49,495,446
(b) H, L, O, P, Q and R category	150	131	19	15	498,034	9,462,646
(c) E category	390	131	259	198	38,466	9,962,694
(d) K category	350	131	219	167	41,345	9,054,555
(e) Border crossing card—age 15 and over	140	131	9	7	673,128	6,058,152
(f) Border crossing card—under age 15	14	13	1	8	224,376	224,376

[1] Based on FY2009 actuals.
[2] Using FY2009 actuals to generate projections.

Historically, nonimmigrant visa workload has increased year to year at approximately 5%. However, global economic conditions led to a 12.7% drop in demand in Fiscal Year 2009. We anticipate that with global economic recovery, demand will return to its historical pattern of growth after Fiscal Year 2010. With regard to the economic impact as a whole, the more than 92% of nonimmigrant visa applications that are not petition-based are sought by and paid for entirely by foreign national applicants. The revenue increases resulting from those fees should not be considered to have a direct cost impact on the domestic economy.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, Federalism, Aug. 4, 1999, the Department has determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. 64 FR 43255.

Paperwork Reduction Act

This rule does not impose any new or modify any existing reporting or record-keeping requirements.

List of Subjects in 22 CFR Part 22

Consular services, fees, passports and visas.

Accordingly, for the reasons stated in the preamble, 22 CFR part 22 is proposed to be amended as follows:

PART 22—[AMENDED]

1. The authority citation for part 22 is amended to read as follows:

Authority: 8 U.S.C. 1101 note, 1153 note, 1183a note, 1351, 1351 note, 1714, 1714 note; 10 U.S.C. 2602(c); 11 U.S.C. 1157 note; 22 U.S.C. 214, 214 note, 1475e, 2504(a), 4201, 4206, 4215, 4219, 6551; 31 U.S.C. 9701; Exec. Order 10,718, 22 FR 4632 (1957); Exec. Order 11,295, 31 FR 10603 (1966).

2. Revise § 22.1 Item 21 to read as follows:

SCHEDULE OF FEES FOR CONSULAR SERVICES

Item No.	Fee
* * * * * * *	
Nonimmigrant Visa Services	
21. Nonimmigrant visa application and border crossing card processing fees (per person):	
(a) Non-petition-based nonimmigrant visa (except E category)	$140
(b) H, L, O, P and R category nonimmigrant visa	150
(c) E category nonimmigrant visa	390
(d) K category nonimmigrant visa	350
(e) Border crossing card—age 15 and over (valid 10 years)	140
(f) Border crossing card—under age 15; for Mexican citizens if parent or guardian has or is applying for a border crossing card (valid 10 years of until the applicant reaches age 15, whichever is sooner)	14
* * * * * * *	

Dated: December 9, 2009.

Patrick Kennedy,

Under Secretary of State for Management, Department of State.

[FR Doc. E9–29722 Filed 12–11–09; 8:45 am]

BILLING CODE 4710–06–P

POSTAL SERVICE

39 CFR Part 111

Eligibility for Commercial Flats Failing Deflection

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: The Postal Service is filing this proposed rule to describe the applicable prices for commercial flat-size mail failing to meet new deflection standards, to be effective on June 7, 2010.

DATES: We must receive your comments on or before January 13, 2010.

ADDRESSES: Mail or deliver written comments to the Manager, Mailing

Standards, U.S. Postal Service, 475 L'Enfant Plaza SW., Room 3436, Washington, DC 20260–3436. You may inspect and photocopy all written comments at USPS Headquarters Library, 475 L'Enfant Plaza SW., 11th Floor N, Washington, DC between 9 a.m. and 4 p.m., Monday through Friday. Email comments concerning the proposed price eligibility, containing the name and address of the commenter, may be sent to: *MailingStandards@usps.gov,* with a subject line of ''Deflection comments.'' Faxed comments are not accepted.

FOR FURTHER INFORMATION CONTACT: Bill Chatfield, 202–268–7278.

SUPPLEMENTARY INFORMATION: The Postal Service's final rule for new mailing standards to be effective in May 2009 was published in the **Federal Register** (74 FR 15380–15384) on April 6, 2009. The final rule included new deflection standards, previously applicable only to automation flats, for all commercial flat-size mail. The implementation of the new deflection standards was postponed from the May 2009 date and is being deferred further to June 2010. In this notice we provide background, a reiteration of the changes and revision to the applicable prices for pieces that do not meet the deflection standard, followed by changes to the mailing standards in *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®).

Background

As a reminder, the USPS® changed the deflection standards in 2007 by increasing the permitted deflection to 4 inches for flat pieces that were at least 10 inches long. The difficulties in processing flats that came close to that new maximum deflection made it clear that the change was too great to allow successful processing and handling of flats with a 4 inch maximum deflection. In a notice published in the DMM Advisory on August 18, 2009, we announced a further deferral of the implementation date of the revised deflection standard. The additional delayed implementation date of June 7, 2010 offers mailers the opportunity to make changes to slightly stiffen or redesign their ''droopy'' flats to meet the new standards.

New Standards

In the final rule published in the **Federal Register** (74 FR 15380–15384) on April 6, 2009, we extended the deflection standards, currently applicable to automation flats, to all commercial flat-size mailpieces, except those mailed at saturation and high-density Periodicals or Standard Mail® prices. The deflection standards also changed to allow 1 inch less of vertical deflection (droop) than is currently allowed. We eliminated the current exception for oblong flats (those with a bound edge on the shorter side) so all flats will be tested with the length placed perpendicular to the edge of a flat surface.

Applicable Prices

According to the original final rule in April 2009, parcel prices would apply to First-Class Mail®, Standard Mail (option for Not Flat-Machinable (NFM) prices) and Bound Printed Matter flat-size pieces not meeting the new deflection standards. Due to changes in the pricing structure implemented on May 11, 2009, for Standard Mail NFMs and parcels, those prices do not align directly with Standard Mail flats prices. Although eligibility for Periodicals flats failing deflection was not specifically discussed, current standards would exempt Periodicals flats categorized as nonmachinable and mailed to outside county addresses from the deflection standards. Since First-Class Mail single-piece flats are not subject to deflection standards, mailers of commercial First-Class Mail flats that do not meet the deflection standard would have the option of presorted parcel or single-piece flats prices.

Customers have expressed concerns about the potential additional postage due for pieces failing the deflection standard. Based on these concerns and to align with other quality efforts, the Postal Service has determined to change the price eligibilities applicable for pieces that fail the deflection standard. Generally, the price eligibilities proposed represent prices less than the parcel or NFM prices originally published.

For commercial flats that fail the deflection standard, price eligibility by class of mail is described in the tables below. For all classes of mail, if the mailing is determined not to meet the deflection standard, the sortation for failed pieces may remain as prepared.

First-Class Mail Automation

Eligibility as planned or presented:	Eligibility with failed deflection:
Automation 5-digit flat	Presorted flat.
Automation 3-digit	Presorted flat.
Automation ADC	Presorted flat.
Automation MADC	Presorted flat.

First-Class Mail Presorted (nonautomation)

Eligibility as planned or presented:	Eligibility with failed deflection:
Presorted flat	Single-piece flat or presorted parcel.

Periodicals Outside County

Piece price eligibility as planned or presented:	Piece price eligibility with failed deflection:
Basic carrier route flat	Machinable nonbarcoded or barcoded 5-digit flat.
Machinable barcoded 5-digit flat	Nonmachinable barcoded 5-digit flat.
Machinable barcoded 3-digit flat	Nonmachinable barcoded 3-digit flat.
Machinable barcoded ADC flat	Nonmachinable barcoded ADC flat.
Machinable barcoded MADC flat	Nonmachinable barcoded MADC flat.
Machinable nonbarcoded 5-digit flat	Nonmachinable nonbarcoded 5-digit flat.
Machinable nonbarcoded 3-digit flat	Nonmachinable nonbarcoded 3-digit flat.
Machinable nonbarcoded ADC flat	Nonmachinable nonbarcoded ADC flat.
Machinable nonbarcoded MADC flat	Nonmachinable nonbarcoded MADC flat.
Nonmachinable barcoded or nonbarcoded flat	Price claimed, if otherwise eligible.

Periodicals In-County	
Piece price eligibility as planned or presented:	Piece price eligibility with failed deflection:
Basic carrier route flat	Nonautomation or automation (if barcoded) 5-digit flat.
Automation 5-digit flat	Nonautomation 5-digit flat.
Automation 3-digit flat	Nonautomation 3-digit flat.
Automation basic flat	Nonautomation basic flat.
Standard Mail	
Eligibility as planned or presented:	Eligibility with failed deflection:
Basic carrier route flat	Nonautomation 5-digit flat.
Automation 5-digit flat	Nonautomation 5-digit flat.
Automation 3-digit flat	Nonautomation 3-digit flat.
Automation ADC flat	Nonautomation ADC flat.
Automation MADC flat	Nonautomation MADC flat.
Nonautomation flat (all sort levels)	Nonautomation MADC flat.
Bound Printed Matter	
Eligibility as planned or presented:	Eligibility with failed deflection:
Carrier route flat	Carrier route parcel.
Barcoded presorted flat	Presorted parcel.
Nonbarcoded presorted flat	Presorted parcel.
Nonbarcoded nonpresorted flat	Price as claimed, if otherwise eligible.

Although we are exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C of 553(b), (c)] regarding proposed rulemaking by 39 U.S.C. 410(a), we invite public comments on the following proposed revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR Part 111.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR Part 111 is proposed to be amended as follows:

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

2. Revise the following sections of *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), as follows:

* * * * *

300 Commercial Mail Flats

301 Physical Standards

1.0 Physical Standards for Flats

* * * * *

[Renumber current 1.7 as new 1.9. Renumber current 301.3.2.3 in its entirety as new 1.7, revise heading and text to extend maximum deflection standards to all flat-size mailpieces, and delete item c as follows:]

1.7 Maximum Deflection for Flat-Size Mailpieces

Flat-size mailpieces must be flexible (see 1.3) and must meet maximum deflection standards. Flat-size pieces mailed at saturation or high-density carrier route prices are not required to meet these deflection standards. Test deflection as follows:

a. For pieces 10 inches or longer (see Exhibit 1.7a):

1. Place the piece on a flat surface with the address side facing up and the length perpendicular to the edge of the surface, and extend the piece 5 inches off the edge of the surface. Test square bound flats by placing the bound edge parallel to the edge. Turn the piece around 180 degrees and repeat the process.

2. The piece is mailable at flat prices if it does not droop more than 3 inches vertically at either end.

Exhibit 1.7a Deflection Test—Flats 10 Inches or Longer

[Placeholder for new exhibit.]

b. For pieces less than 10 inches long (see Exhibit 1.7b):

1. Place the piece on a flat surface with the address side facing up and the length perpendicular to the edge of the surface, and extend the piece one-half of its length off the edge of the surface. Test square bound flats by placing the bound edge parallel to the edge. Turn the piece around 180 degrees and repeat the process.

2. The piece is mailable at flat prices if it does not droop more than 2 inches less than the extended length. For example, a piece 8 inches long would extend 4 inches off a flat surface. It must not droop more than 2 inches vertically at either end.

Exhibit 1.7b Deflection Test—Flats Less Than 10 Inches Long

[Placeholder for new exhibit.]

[Add new 1.8 to read as follows:]

1.8 Eligibility for Flat-Size Pieces Not Meeting Deflection Standards

Commercial flat-size mailpieces that do not meet the deflection standards in 1.7 must pay applicable prices as follows:

a. First-Class Mail—price claimed:

1. Automation flats: pay presorted flats prices.

2. Nonautomation flats: pay presorted parcel prices or single-piece flats prices, at the mailer's option.

b. Periodicals—price claimed:

1. Outside County noncarrier route flats: pay nonmachinable flats piece prices, as allowed under 707.26.0.

2. Outside County basic carrier route flats: pay 5-digit machinable flats piece prices.

3. In-County noncarrier route flats: pay nonautomation flats piece prices.

4. In-County basic carrier route flats: pay 5-digit flats piece prices.

c. Standard Mail—price claimed:

1. Automation flats: pay nonautomation flats prices at same sort level.

2. Nonautomation noncarrier route flats: pay mixed ADC flats prices regardless of sort level.

3. Basic carrier route flats: pay 5-digit nonautomation flats prices.

d. Bound Printed Matter—parcel prices.

e. In all cases above, pieces may remain sorted as per price originally claimed, if otherwise eligible.

* * * * *

We will publish an appropriate amendment to 39 CFR Part 111 to reflect these changes if our proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. E9–29612 Filed 12–11–09; 8:45 am]

BILLING CODE 7710–12–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3050

[Docket No. RM2010–5; Order No. 352]

Periodic Reporting Rules

AGENCY: Postal Regulatory Commission.

ACTION: Proposed rule; availability of rulemaking petition.

SUMMARY: Under a new law, the Postal Service must file an annual compliance report on costs, revenues, rates, and quality of service associated with its products. It recently filed documents with the Commission to change some of the methods it uses to compile a fiscal year report. In the Commission's view, these documents constitute a rulemaking petition. Therefore, this document provides notice of the Postal Service's filing and an opportunity for public comment.

DATES: Comments are due: December 17, 2009.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Commenters who cannot submit their views electronically should contact the person identified in ''FOR FURTHER INFORMATION CONTACT'' by telephone for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 or *stephen.sharfman@prc.gov*.

SUPPLEMENTARY INFORMATION: On December 1, 2009, the Postal Service filed a petition pursuant to 39 CFR 3050.11 to initiate an informal rulemaking proceeding to consider changes in the analytical methods approved for use in periodic reporting.[1] Proposal Twenty-six would change the methods used to estimate the Revenue, Pieces, and Weight (RPW) values for Alaska Bypass mail and would not affect the FY09 Annual Compliance Review (ACR). In the attachment addressing Proposal Twenty-six that accompanies the Petition, the Postal Service explains that the pricing methodology for Alaska Bypass mail was changed from a piece system to a palletized system (where the piece total is the maximum number of 70 pound pieces plus one for the remainder on each pallet) as of May 11, 2009.

Proposal Twenty-seven is triggered by a data collection change and would change the methodology used to estimate Carrier Sequence Barcode Sorter (CSBCS) productivity and would affect the FY 2009 Annual Compliance Report (ACR). Proposal Twenty-seven is a result of the discontinuation of Management Operating Data System (MODS) operation numbers. The Postal Service proposes to replace the MODS productivity data with adjusted throughput data from machine utilization reports.

Proposal Twenty-eight would remove all single-piece Parcel Post models from the FY 2009 ACR because the models are no longer required to support the price structure, tied to the calculation of workshare cost avoidances, or supported by data from existing systems.

The attachments to the Postal Service's Petition explain each proposal in more detail, including its objective, background, impact, and an empirical example (comparing the changes in data reporting to the status quo). The Petition, including the attachments, are available for review on the Commission's Web site, *http://www.prc.gov*.

Comments on Proposals Twenty-six through Twenty-eight are due no later than December 17, 2009.

Pursuant to 39 U.S.C. 505, Emmett Rand Costich and John Klingenberg are appointed as Public Representatives to represent the interests of the general public in the above-captioned docket.

It is ordered:

1. The Petition of the United States Postal Service Requesting Initiation of a Proceeding to Consider Proposed Changes in Analytic Principles (Proposals Twenty-six-Twenty-eight), filed December 1, 2009, is granted.

2. The Commission establishes Docket No. RM2010–5 to consider the matters raised by the Postal Service's Petition.

3. Interested persons may submit comments on Proposals Twenty-six through Twenty-eight no later than December 17, 2009.

4. The Commission will determine the need for reply comments after review of the initial comments.

5. The Commission appoints Emmett Rand Costich and John Klingenberg as Public Representatives to represent the interests of the general public in this proceeding.

6. The Secretary shall arrange for publication of this notice in the **Federal Register.**

By the Commission.

Judith M. Grady,

Assistant Secretary.

[FR Doc. E9–29615 Filed 12–11–09; 8:45 am]

BILLING CODE 7710–FW–S

[1] Petition of the United States Postal Service Requesting Initiation of a Proceeding to Consider Proposed Changes in Analytic Principles (Proposals Twenty-six-Twenty-eight), December 1, 2009 (Petition).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 449

[EPA–HQ–OW–2004–0038; FRL–9092–2]

RIN 2040–AE69

Effluent Guidelines and New Source Performance Standards for the Airport Deicing Category; Extension of Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On August 28, 2009 (74 FR 44676), EPA published a proposed rule entitled ''Effluent Limitation Guidelines and New Source Performance Standards for the Airport Deicing Category; Proposed Rule.'' Written comments on the proposed rulemaking were to be submitted to EPA on or before December 28, 2009 (a 120-day public comment period). Since publication, the Agency has received several requests for additional time to submit comments. EPA is extending the public comment period until February 26, 2010.

DATES: Comments must be received on or before February 26, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2004–0038 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: OW–Docket@epa.gov*, Attention Docket ID No. EPA–HQ–OW–2004–0038.
- *Mail:* Water Docket, U.S. Environmental Protection Agency, Mail Code: 4203M, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Attention Docket ID No. EPA–HQ–OW–2004–0038. Please include a total of 3 copies.
- *Hand Delivery:* Water Docket, EPA Docket Center, EPA West Building

Room 3334, 1301 Constitution Ave., NW., Washington, DC, Attention Docket ID No. EPA–HQ–OW–2004–0038. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information by calling 202–566–2426.

Instructions: Direct your comments to Docket No EPA–HQ–OW–2004–0038. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. A detailed record index, organized by subject, is available on EPA's Web site at *http://epa.gov/guide/airport.* Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Water Docket in the EPA Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744, and the telephone number for the Water Docket is 202–566–2426.

FOR FURTHER INFORMATION CONTACT: Eric Strassler, Engineering and Analysis Division, telephone 202–566–1026; e-mail: *strassler.eric@epa.gov.*

Dated: December 8, 2009.

Peter S. Silva,

Assistant Administrator for Water.

[FR Doc. E9–29688 Filed 12–11–09; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 74, No. 238
Monday, December 14, 2009

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Public Attitudes, Beliefs, and Values About National Forest Systems Land Management

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension of a currently approved information collection; Public Attitudes, Beliefs, and Values about National Forest Systems Land Management.

DATES: Comments must be received in writing on or before February 12, 2010 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Dr. Daniel W. McCollum, Rocky Mountain Research Station, 2150–A Centre Ave., Suite 350, Fort Collins, CO 80526.

Comments also may be submitted via facsimile to 970–295–5959 or by e-mail to *dmccollum@fs.fed.us.*

The public may inspect comments received at Rocky Mountain Research Station, 2150–A Centre Ave., Suite 350, Room 347, Fort Collins, CO, during normal business hours. Visitors are encouraged to call ahead to 970–295–5951 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Dr. Daniel W. McCollum, Rocky Mountain Research Station, 970–295–5962. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Public Attitudes, Beliefs, and Values about National Forest Systems Land Management.

OMB Number: 0596–0205.

Expiration Date of Approval: March 31, 2010.

Type of Request: Renewal.

Abstract: The intent of this collection is to obtain information on public attitudes, beliefs, and values toward public land and public land use and how those values are affected by public land management. In addition, the information collected helps determine the acceptable tradeoffs in developing alternative management plans. Surveys completed by the public and specific stakeholder groups assist natural forest land managers and planners with scientifically credible information. This information is critical to planning and implementing public policy related to National forests in the Southwest Region. Renewal of this authority will allow the USDA Forest Service to monitor changes in public attitudes, beliefs, and values over time.

Legal authority for this collection comes from the following sources: The National Environmental Policy Act of 1969, the National Forest Management Act of 1976, and the NFMA Planning Rule. These authorities call for periodic forest plan revision and planning related to management policies and actions in the Southwest Region. The data collected are analyzed and incorporated into these planning and decision making processes. Social science and economic information provide qualitative and quantitative metrics to assist natural forest land managers in developing alternative processes and in evaluating performance.

Monitoring the public with survey instruments over time provides data to compare and evaluate changes in public attitudes, beliefs, and values related to national forest use and management.

Estimate of Annual Burden: 30 minutes for the Mail or Web-based survey; 8 minutes for the telephone survey to non-respondents to mail and Web-based surveys.

Type of Respondents: General public within the administrative boundaries of the Forest Service Southwest Region, Region 3 (New Mexico, Arizona, and a few counties in Texas and Oklahoma).

Estimated Annual Number of Respondents: 20,200 (up to 20,000 mail or Web-based survey; and 200 for telephone survey).

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 10,027 burden hours annually.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: December 4, 2009.

Ann Bartuska,

Deputy Chief, Research and Development.

[FR Doc. E9–29616 Filed 12–11–09; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Emergency Food Assistance Program; Availability of Foods for Fiscal Year 2010

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the surplus and purchased foods that the Department expects to make available for donation to States for use in providing nutrition assistance to the needy under The Emergency Food Assistance Program (TEFAP) in Fiscal Year (FY) 2010. The foods made available under this notice must, at the discretion of the State, be distributed to

eligible recipient agencies for use in preparing meals and/or for distribution to households for home consumption.

DATES: *Effective Date:* October 1, 2009.

FOR FURTHER INFORMATION CONTACT: Theresa Geldard, Policy Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302–1594 or telephone (703) 305–2662.

SUPPLEMENTARY INFORMATION: In accordance with the provisions set forth in the Emergency Food Assistance Act of 1983 (EFAA), 7 U.S.C. 7501, *et seq.,* and the Food and Nutrition Act of 2008, 7 U.S.C. 2036, the Department makes foods available to States for use in providing nutrition assistance to those in need through TEFAP. In accordance with section 214 of the EFAA, 7 U.S.C. 7515, 60 percent of each State's share of TEFAP foods is based on the number of people with incomes below the poverty level within the State and 40 percent on the number of unemployed persons within the State. State officials are responsible for establishing the network through which the foods will be used by eligible recipient agencies (ERA) in providing nutrition assistance to those in need, and for allocating foods among those agencies. States have full discretion in determining the amount of foods that will be made available to ERAs for use in preparing meals and/or for distribution to households for home consumption.

The types of foods the Department expects to make available to States for distribution through TEFAP in FY 2010 are described below.

Surplus Foods

Surplus foods donated for distribution under TEFAP are Commodity Credit Corporation (CCC) foods purchased under the authority of section 416 of the Agricultural Act of 1949, 7 U.S.C. 1431 (section 416) and foods purchased under the surplus removal authority of section 32 of the Act of August 24, 1935, 7 U.S.C. 612c (section 32). The types of foods typically purchased under section 416 include dairy, grains, oils, and peanut products. The types of foods purchased under section 32 include meat, poultry, fish, vegetables, dry beans, juices, and fruits.

In FY 2010, the Department anticipates that there will be sufficient quantities of tomato and mushroom soups, ultra high temperature fluid 1 percent milk, and instant milk to support the distribution of these foods through TEFAP. Other surplus foods may be made available to TEFAP throughout the year. The Department would like to point out that food acquisitions are based on changing agricultural market conditions; therefore, the availability of foods is subject to change.

Approximately $138.8 million in surplus foods acquired in FY 2009 are being delivered to States in FY 2010. These foods include fluid and instant milk, lamb leg roasts and chops, walnut pieces, apple juice, blueberries, dried cherries, dry great northern beans, canned pork, frozen pork patties, apricot halves, applesauce, turkey deli meat, turkey roasts, and frozen turkey breasts.

Purchased Foods

In accordance with section 27 of the Food and Nutrition Act of 2008, 7 U.S.C. 2036, the Secretary is directed to purchase $248 million worth of foods in FY 2010 for distribution through TEFAP. These foods are made available to States in addition to those surplus foods which otherwise might be provided to States for distribution under TEFAP.

For FY 2010, the Department anticipates purchasing the following foods for distribution through TEFAP: dehydrated potatoes, dried plums, raisins, frozen ground beef, frozen whole chicken, frozen ham, frozen turkey roast, blackeye beans, garbanzo beans, great northern beans, light kidney beans, lentils, lima beans, pinto beans, egg mix, shell eggs, lowfat bakery mix, egg noodles, white and yellow corn grits, spaghetti, macaroni, oats, peanut butter, roasted peanuts, rice, whole grain rotini, vegetable oil, ultra high temperature fluid 1 percent milk, bran flakes, corn flakes, oat cereal, rice cereal, corn cereal, and corn and rice cereal; and the following canned items: green beans, blackeye beans, low sodium kidney beans, refried beans, low sodium vegetarian beans, carrots, cream corn, whole kernel corn, peas, sliced potatoes, pumpkin, low sodium spaghetti sauce, spinach, sweet potatoes, tomatoes, diced tomatoes, low sodium tomato sauce, mixed vegetables, reduced sodium tomato soup, reduced sodium vegetable soup, apple juice, cherry apple juice, cran-apple juice, grape juice, grapefruit juice, orange juice, tomato juice, apricots, applesauce, mixed fruit, freestone and cling peaches, pears, beef, beef stew, chicken, pork, and salmon. The amounts of each item purchased will depend on the prices the Department must pay, as well as the quantity of each item requested by the States. Changes in agricultural market conditions may result in the availability of additional types of foods or the non-availability of one or more types listed above.

Dated: December 3, 2009.

Julia Paradis,

Administrator, Food and Nutrition Service.

[FR Doc. E9–29687 Filed 12–11–09; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Telecommunications and Information Administration.

Title: Public Telecommunications Facilities Program (PTFP) Application Information.

OMB Control Number: 0660–0003.

Type of Review: Extension of currently approved collection.

Burden Hours: 23,830.

Number of Respondents: 300.

Average Hours per Response: 75 hours for online applications; and 84 hours for printed applications. In every grant cycle, applicants under serious consideration for funding are required to submit revised information, 4 hours for information completed online; and 7 hours for printed material.

Needs and Uses: The PTFP is a competitive grant-making program that operates an annual application review process. The grant proposals describe unique projects intended to provide broadcasting or telecommunications services to the general public. The collected information is used to determine which projects are funded.

Affected Public: Not-for-profit institutions; state, local, or tribal government.

Frequency: Annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Nicholas Fraser, (202) 395–5887.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 7845, 1401 Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nicholas Fraser, OMB Desk

Officer, FAX number (202) 395–5806 or via the Internet at *Nicholas_A._Fraser@omb.eop.gov.*

Dated: December 8, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–29595 Filed 12–11–09; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

Office of the Secretary

Proposed Information Collection; Comment Request; Applicant for Funding Assistance

AGENCY: Office of the Secretary, Chief Financial Officer and Assistant Secretary for Administration.

ACTION: Notice.

SUMMARY: The Department of Commerce (DOC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the continuing and proposed information collection, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before February 12, 2010.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 1401 Constitution Avenue, NW., Washington, DC 20230 (or via Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Grants Management Division, Office of Acquisition Management, Gary Johnson, Grants Director, (202) 482–1679 or via e-mail *Gjohnso3@doc.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The sponsorship of this information collection was previously maintained by the Department of Commerce's (DOC) Office of Inspector General. This sponsorship is presently in the DOC Office of Acquisition Management, Grants Management Division.

The DOC, through its bureaus, the Economic Development Administration (EDA), Minority Business Development Agency (MBDA), International Trade Administration (ITA), National Oceanic and Atmospheric Administration (NOAA), National Technical Information Service (NTIS), National Telecommunications and Information Agency (NTIA), and other programs, assists reliable, capable individuals and firms in pursuit of various business development, business enterprise development and other forms of economic development. The CD–346 is used to assist programs and grants administration officials in determining the fiscal responsibility and financial integrity of principal officers and employees of organizations, firms, and other entities which are recipients or beneficiaries of grants, cooperative agreements, loans, loan guarantees or other forms of federal financial assistance.

The CD–346 is also completed, when required, by grant recipients. Through the name check process, background information is collected on key individuals associated with proposed financial assistance (grants, cooperative agreements, loans and loan guarantees) recipient organizations. The name check identifies those principals affiliated with proposed recipient organizations who have been convicted of, or are presently facing, criminal charges or are under investigation for fraud, theft, perjury or other matters which have significant impact on questions of management honesty or financial integrity.

II. Method of Collection

The information is submitted on paper forms.

III. Data

OMB Control Number: 0605–0001.

Form Number: CD–346.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations; not-for-profit institutions;

Estimated Number of Respondents: 2,500.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Respondent Burden Hours: 625.

Estimated Total Annual Respondent Cost Burden: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: December 9, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–29696 Filed 12–11–09; 8:45 am]

BILLING CODE 3510–03–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; Licensing Exemptions and Exclusions

AGENCY: Bureau of Industry and Security.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before February 12, 2010.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Larry Hall, BIS ICB Liaison, (202)482–4895, *lhall@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information consolidates ten (10) existing BIS information collections into one new collection. These existing collections implement export licensing exceptions or exclusions in which an exporter may chose to exchange a requirement to obtain an individual validated export license with a reporting and/or recordkeeping requirement. All of these

exclusions and exceptions are designed to reduce burden in collection, OMB Control No. 0694–0088, ''Simplified Network Application Process & Multipurpose Application Form.'' The existing collections authorities that will be consolidated are:

OMB 0694–0023 Written Assurances for Exports of Technical Data under License Exception TSR.
OMB 0694–0025 Short Supply—Unprocessed Western Red Cedar.
OMB 0694–0029 License Exception TMP: Special Requirements.
OMB 0694–0033 Humanitarian Donations.
OMB 0694–0086 Report of Sample Shipments of Chemical Weapons Precursors.
OMB 0694–0101 One-time Report For Foreign Software or Technology Eligible For De Minimis Exclusion.
OMB 0694–0104 Commercial Encryption Items under the Jurisdiction of the Department of Commerce.
OMB 0694–0106 Recordkeeping Requirements under the Wassenaar Arrangement.
OMB 0694–0123 Prior Notification of Exports under License Exception AGR.
OMB 0694–0133 Thermal Imaging Camera Reporting.

The consolidation of these collections will reduce the cost of renewing ten individual collections every three years and also make it easier to add additional exclusions and exceptions as revisions to an existing collection. BIS will discontinue the above collections when this new collection is approved.

II. Method of Collection

Submitted electronically or in paper form.

III. Data

OMB Control Number: None.
Form Number(s): None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 2,121.
Estimated Time per Response: 15 minutes to 60 hours.
Estimated Total Annual Burden Hours: 14,576.
Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: December 9, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–29702 Filed 12–11–09; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–898]

Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* December 14, 2009.

SUMMARY: The Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on chlorinated isocyanurates from the People's Republic of China (''PRC'') covering the period June 1, 2007, through May 31, 2008. We invited interested parties to comment on our preliminary results. Based on our analysis of the comments received, we have made changes to our margin calculations. Therefore, the final results differ from the preliminary results.

FOR FURTHER INFORMATION CONTACT: Brandon Petelin or Charles Riggle, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–8173 or (202) 482–0650, respectively.

Background

On June 8, 2009, the Department published its preliminary results of review of the antidumping order on chlorinated isocyanurates from the PRC. *See Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 27104 (June 8, 2009) (''*Preliminary Results*''). On June 29, 2009, Clearon Corporation (''Clearon'') and Occidental Chemical Corporation (''Petitioners''), Petitioners in the underlying investigation, and Hebei Jiheng Chemical Corporation, Ltd. (''Jiheng'') provided additional information on the appropriate surrogate values to use as a means of valuing the factors of production. On July 8, 2009, the Department received a request for a hearing from Petitioners. On July 13, 2009, the Department received a case brief from Petitioners. On July 20, 2009, the Department received a rebuttal brief from Jiheng. On July 27, 2009, Petitioners withdrew their request for a public hearing. On October 30, 2009, the Department placed additional surrogate value information on the record of this review for steam coal. On November 3, 2009, the Department received comments from Jiheng on the additional surrogate value information. We have conducted this administrative review in accordance with section 751 of the Tariff act of 1930, as amended (''the Act''), and 19 CFR 351.213.

Scope of the Order

The products covered by this order are chlorinated isocyanurates, as described below: Chlorinated isocyanurates are derivatives of cyanuric acid, described as chlorinated s–triazine triones. There are three primary chemical compositions of chlorinated isocyanurates: (1) trichloroisocyanuric acid ($Cl_3(NCO)_3$), (2) sodium dichloroisocyanurate (dihydrate) ($NaCl_2(NCO)_3 \bullet 2H_2O$), and (3) sodium dichloroisocyanurate (anhydrous) ($NaCl_2(NCO)_3$). Chlorinated isocyanurates are available in powder, granular, and tableted forms. This order covers all chlorinated isocyanurates.

Chlorinated isocyanurates are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.50.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dehydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isocyanurates and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for

convenience and customs purposes, the written description of the scope of this order is dispositive.

Analysis of Comments Received

All issues raised in the post–preliminary comments by parties in this review are addressed in the memorandum from John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Carole A. Showers, Acting Deputy Assistant Secretary for Import Administration, ''Issues and Decision Memorandum for the 2007–2008 Administrative Review of Chlorinated Isocyanurates from the People's Republic of China,'' (''Issues and Decision Memorandum'') dated concurrently with this notice, which is hereby adopted by this notice. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum is attached to this notice as an appendix. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit (''CRU'') in room 1117 in the main Commerce Department building, and is also accessible on the Web at *http://ia.ita.doc.gov/frn*. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made changes in the margin calculations for Jiheng. *See* Issues and Decision Memorandum at Comments 1–5.

We revised the steam coal surrogate value from the *Preliminary Results*. For these final results, we have relied on data for categories B and C steam coal from both the 2004 and 2007 Coal India Ltd. publications. *See* Issues and Decision Memorandum at Comment 2 and ''Surrogate Value Memorandum: Final Results of the 2007–2008 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China,'' (''Final Surrogate Value Memorandum'') dated concurrently with this notice.

We revised the financial ratio calculations using financial statements from Kanoria Chemicals and Industries Limited for the year ended March 31, 2008. *See* Issues and Decision Memorandum at Comment 3 and the Final Surrogate Value Memorandum, dated concurrently with this notice.

We corrected certain ministerial errors in the calculations for the *Preliminary Results*. *See* Issues and Decision Memorandum at Comment 5 and Memorandum to the File titled ''Analysis Memorandum for the Final Results: Hebei Jiheng Chemical Company, Ltd.,'' dated concurrently with this notice.

We revised the electricity calculation used in the *Preliminary Results* by using updated electricity data from the Central Electricity Authority, an administrative body of the government of India, as published in the March 2008 report titled Electricity Tariff & duty and average rates of electricity supply in India. *See* Attachment 6B of Jiheng's June 29, 2009, Surrogate Value Submission and the Final Surrogate Value Memorandum.

Final Results of Review

We determined that the following dumping margin exists for the period June 1, 2007, through May 31, 2008.

Exporter	Weighted–Average Margin Percentage
Jiheng	20.16

Assessment Rates

The Department intends to issue assessment instructions to U.S. Customs and Border Protection (''CBP'') 15 days after the date of publication of these final results of review. In accordance with 19 CFR 351.212(b)(1), we have calculated importer–specific assessment rates for merchandise subject to this review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise exported by Jiheng, the cash deposit rate will be 20.16 percent; (2) for previously reviewed or investigated exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter–specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise, which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC–wide rate of 285.63 percent; and (4) for all non–PRC exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non–PRC exporter. These deposit requirements shall remain in effect until further notice.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties. This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

We are issuing and publishing these final results of review and notice in accordance with sections 751(a) and 777(i) of the Act.

Dated: December 7, 2009.

Carole A. Showers,

Acting Deputy Assistant Secretary for Import Administration.

Appendix

List of Comments and Issues in the Issues and Decision Memorandum

Surrogate Values

Comment 1: Surrogate Value for Urea
Comment 2: Surrogate Value for Steam Coal
Comment 3: Financial Ratios
Comment 4: Surrogate Value for Anhydrous Ammonia

Company Specific Issues

Jiheng

Comment 5: Clerical Error – By Product Offset

[FR Doc. E9–29731 Filed 12–11–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–832]

Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On June 8, 2009, the Department published its preliminary results in the antidumping duty administrative review of pure magnesium from the PRC.[1] The period of review (''POR'') for the administrative review is May 1, 2007, through April 30, 2008. We have determined that Tianjin Magnesium International Co., Ltd. (''TMI''), the only respondent in this review, made sales in the United States at prices below normal value (''NV''). There are no other respondents covered by this review. We invited interested parties to comment on our preliminary results in this review. Based on our analysis of the comments we received in the administrative review, we made certain changes to our *Preliminary Results*. The final dumping margins for this review are listed in the ''Final Results Margins'' section below.

EFFECTIVE DATE: December 14, 2009.

FOR FURTHER INFORMATION CONTACT: Eugene Degnan, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0414, respectively.

Background

The Department published its preliminary results on June 8, 2009.[2] We invited parties to comment on the *Preliminary Results*. We received comments from Petitioner,[3] TMI and Alcoa Inc., a U.S. consumer of pure magnesium. Interested parties submitted case and rebuttal briefs on July 17 and July 23, 2008, respectively. On September 29, 2008, the Department extended the deadline for the final results to December 8, 2008.[4] We held a hearing on November 20, 2008, in which all interested parties participated.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (''the Act''), we verified the information submitted by TMI for use in our final results of review.[5] We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by TMI.

Period of Review

The POR is May 1, 2007, through April 30, 2008.

Scope of the Order

Merchandise covered by this order is pure magnesium regardless of chemistry, form or size, unless expressly excluded from the scope of this order. Pure magnesium is a metal or alloy containing by weight primarily the element magnesium and produced by decomposing raw materials into magnesium metal. Pure primary magnesium is used primarily as a chemical in the aluminum alloying, desulfurization, and chemical reduction industries. In addition, pure magnesium is used as an input in producing magnesium alloy. Pure magnesium encompasses products (including, but not limited to, butt ends, stubs, crowns and crystals) with the following primary magnesium contents: (1) Products that contain at least 99.95 percent primary magnesium, by weight (generally referred to as ''ultra pure'' magnesium); (2) Products that contain less than 99.95 percent but not less than 99.8 percent primary magnesium, by weight (generally referred to as ''pure'' magnesium); and (3) Products that contain 50 percent or greater, but less than 99.8 percent primary magnesium, by weight, and that do not conform to ASTM specifications for alloy magnesium (generally referred to as ''off–specification pure'' magnesium).

''Off–specification pure'' magnesium is pure primary magnesium containing magnesium scrap, secondary magnesium, oxidized magnesium or impurities (whether or not intentionally added) that cause the primary magnesium content to fall below 99.8 percent by weight. It generally does not contain, individually or in combination, 1.5 percent or more, by weight, of the following alloying elements: aluminum, manganese, zinc, silicon, thorium, zirconium and rare earths.

Excluded from the scope of this order are alloy primary magnesium (that meets specifications for alloy magnesium), primary magnesium anodes, granular primary magnesium (including turnings, chips and powder) having a maximum physical dimension (*i.e.*, length or diameter) of one inch or less, secondary magnesium (which has pure primary magnesium content of less than 50 percent by weight), and remelted magnesium whose pure primary magnesium content is less than 50 percent by weight.

Pure magnesium products covered by this order are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8104.11.00, 8104.19.00, 8104.20.00, 8104.30.00, 8104.90.00, 3824.90.11, 3824.90.19 and 9817.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

Separate Rate

In the *Preliminary Results*, we determined that TMI met the criteria for the application of a separate antidumping duty rate.[6] We have continued to grant TMI a separate rate because we have not received any information since the *Preliminary Results* which would warrant reconsideration of our separate–rate determination. Therefore, we have assigned an individual antidumping duty margin to TMI for this review period.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this review are addressed in the memorandum from John M. Andersen, Acting Deputy Assistant Secretary, for Antidumping and Countervailing Duty Operations to Carole A. Showers, Acting Deputy Assistant Secretary for Import Administration, ''Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Pure Magnesium from the People's Republic of China,'' dated December 7, 2009, which is hereby adopted by this notice (''Issues and Decision Memorandum''). A list of the issues which parties raised and to which we respond in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public

[1] *See Pure Magnesium from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 27090 (June 8, 2009) (''*Preliminary Results*'').

[2] *See Preliminary Results*.

[3] United States Magnesium LLC.

[4] *See Pure Magnesium From the People's Republic of China: Extension of Time for the Final Results of the Antidumping Duty Administrative Review*, 74 FR 48904 (September 24, 2009).

[5] *See* Memorandum to Wendy J. Frankel, ''Verification of the Sales and Factors Responses of Tianjin Magnesium International, Ltd. in the 2007-2008 Administrative Review of the Antidumping Duty Order on Pure Magnesium from the People's Republic of China, (''TMI Verification Report'')'' dated November 4, 2009, on the record of this review Central Records Unit (''CRU''), Room 1117 of the main Department building.

[6] *See Preliminary Results*, 74 FR at 27092-3.

document and is on file in the CRU, Main Commerce Building, Room 1117, and is accessible on the Web at http://ia.ita.doc.gov/frn/. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Results

Based on the results of the verification and an analysis of the comments received, the Department has assigned a margin based on adverse facts available (''AFA''), to TMI for these final results.[7]

Use of Facts Available

The Department has determined that the information to construct an accurate and otherwise reliable margin is not available on the record with respect to TMI because TMI's producers withheld information that had been requested, significantly impeded this proceeding, and provided information that could not be verified, pursuant to sections 776(a)(1) and (2)(A), (C) and (D) of the of Act.[8] As a result, the Department has determined to apply the facts otherwise available.[9] Further, because the Department finds that TMI's producers have failed to cooperate to the best of their ability, pursuant to section 776(b) of the Act, the Department has determined to use an adverse inference when applying facts available in this review.[10] As AFA, the Department is applying a rate of 111.73, which is the highest calculated rate on the record of any segment of the proceeding.[11] In accordance with section 776(b) of the Act, the Department has corroborated this rate to the extent practicable.[12]

Final Results Margins

We determine that the following weighted–average percentage margins exist for the POR:

PURE MAGNESIUM FROM THE PRC

Exporter	Weighted–Average Margin (Percent)
TMI	111.73 Percent

[7] For a complete discussion of the basis for, and application of, AFA with respect to TMI in this review, *see* the Issues and Decision Memorandum at Comment 1, and the Memorandum to the File, ''Application of Adverse Facts Available for Tianjin Magnesium International, Ltd. in the Review of Pure Magnesium from the People's Republic of China (''AFA Memorandum''),'' dated December 7, 2009.

[8] *See* AFA Memorandum at 12-13.

[9] *Id.*

[10] *Id.* at 13-14.

[11] *See Pure Magnesium From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 76336 (December 16, 2008) (''*Pure Magnesium 06-07*'').

[12] *See* AFA Memorandum at 17-19.

Assessment Rates

The Department will determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of administrative review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: 1) for the exporter listed above, the cash deposit rate will be the rate shown for that company; 2) for previously investigated or reviewed PRC and non–PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter–specific rate published for the most recent period; 3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC–wide rate of 108.26 percent; and 4) for all non–PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non–PRC exporter. These deposit requirements shall remain in effect until further notice.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanctions.

We are issuing and publishing these final results of administrative review and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 7, 2009.

Carole A. Showers,

Acting Deputy Assistant Secretary for Import Administrtation.

Appendix I

List of Issues

Comment 1: Application of Facts Available with Adverse Inferences to TMI
Comment 2: Reconciliation of TMI's Financial Statements
Comment 3: Amended Preliminary Results based on Verification
Comment 4: Sulfur and Dolomite
Comment 5: By–product Cement Clinker
Comment 6: By–product Waste Magnesium
Comment 7: Surrogate Values for No. 2 Flux
Comment 8: Surrogate Values for Coal
Comment 9: Surrogate Financial Statements
Comment 10: China Wage Rate

[FR Doc. E9–29727 Filed 12–11–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–953]

Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce preliminarily determines that countervailable subsidies are being provided to producers and exporters of narrow woven ribbons with woven selvedge from the People's Republic of China. For information on the estimated subsidy rates, see the ''Suspension of Liquidation'' section of this notice.

EFFECTIVE DATE: December 14, 2009.

FOR FURTHER INFORMATION CONTACT: Scott Holland or Anna Flaaten, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1279 or (202) 482–5156, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The following events have occurred since the publication of the Department of Commerce's (''Department'') notice of initiation in the **Federal Register**. *See Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 74 FR 39298 (August 6, 2009) (''Initiation Notice''), and the accompanying Initiation Checklist.[1]

On August 25, 2009, the Department selected two Chinese producers/exporters of narrow woven ribbons with woven selvedge (''Woven Ribbons'') as mandatory respondents, Yama Ribbons and Bows Co., Ltd. (''Yama'') and Changtai Rongshu Textile Co., Ltd. (''Changtai''). *See* Memorandum to Edward C. Yang, Senior Enforcement Coordinator for the China NME Unit for Import Administration, ''Respondent Selection Memo'' (August 25, 2009). This memorandum is on file in the Department's CRU.

On September 8, 2009, the U.S. International Trade Commission (''ITC'') issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of allegedly subsidized imports of Woven Ribbons from the People's Republic of China (''PRC''). *See Narrow Woven Ribbons With Woven Selvedge From China and Taiwan*, Investigation Nos. 701–TA–467 and 731–TA–1164–1165, 74 FR 46224 (September 8, 2009).

On August 26, 2009, we issued the countervailing duty (''CVD'') questionnaires to the Government of the People's Republic of China (''GOC''), Yama, and Changtai.

On September 14, 2009, the Department postponed the deadline for the preliminary determination in this investigation until December 7, 2009. *See Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 74 FR 46978 (September 14, 2009). On September 15, 2009, consultants for Changtai notified the Department that the company would not participate further in the investigation.

We received responses to our questionnaire from the GOC and Yama on October 19, 2009. *See* GOC's Original Questionnaire Response (October 19, 2009) (''GQR'') and Yama's Original Questionnaire Response (October 19, 2009). We sent supplemental questionnaires to the GOC and Yama, on October 30 and November 19, 2009. We received responses to the supplemental questionnaires from Yama on November 13, 2009 and November 23, 2009. *See* Yama's 1st Supplemental Questionnaire Response (November 13, 2009) (''YSQR1'') and Yama's 2nd Supplemental Questionnaire Response (November 23, 2009) (''YSQR2''). We received a response from the GOC to the October 30, 2009, supplemental questionnaire on November 9, 2009. *See* GOC's 1st Supplemental Questionnaire Response (November 9, 2009). On November 25, 2009, the GOC requested an extension of seven days to respond to the Department's November 19, 2009, supplemental questionnaire, originally due December 1, 2009. The Department granted the GOC's request in full. Therefore, the GOC's response is due December 8, 2009.

On October 30, 2009, Berwick Offray LLC and its wholly–owned subsidiary Lion Ribbon Company Inc. (collectively, ''Petitioner'') requested that the final determination of this CVD investigation be aligned with the final determination in the companion antidumping duty (''AD'') investigation in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the ''Act'').

Scope Comments

In accordance with the preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of that notice. *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997), and *Initiation Notice*, 74 FR at 39299.

On August 18, 2009, interested parties Costco Wholesale Corporation, Hobby Lobby Stores, Inc., Jo–Ann Stores, Inc., Michaels Stores, Inc. and Target Corporation (collectively, ''Ribbon Retailers''), Papillion Ribbon and Bow, Inc. (''Papillion''), and Essential Ribbons, Inc. (''Essential Ribbons'') submitted timely comments concerning the scope of the Woven Ribbons AD and CVD investigations. Ribbons Retailers urged that the scope definition be modified to clarify certain scope exclusions and otherwise exclude certain merchandise from the scope. Papillion requested that the Department exclude formed rosettes from the scope of the investigations. Finally, Essential Ribbons requested that pre–cut, hand–finished ribbons for retail packaging, be excluded from the scope.

The Department is currently evaluating the comments submitted by the interested parties and will issue its decision regarding the scope of the investigations prior to the preliminary determinations in the companion AD investigations due on February 4, 2010.

Scope of the Investigation

The merchandise subject to the investigation is narrow woven ribbons with woven selvedge, in any length, but with a width (measured at the narrowest span of the ribbon) less than or equal to 12 centimeters, composed of, in whole or in part, man–made fibers (whether artificial or synthetic, including but not limited to nylon, polyester, rayon, polypropylene, and polyethylene teraphthalate), metal threads and/or metalized yarns, or any combination thereof. Narrow woven ribbons subject to the investigation may:

- also include natural or other non–man-made fibers;
- be of any color, style, pattern, or weave construction, including but not limited to single–faced satin, double–faced satin, grosgrain, sheer, taffeta, twill, jacquard, or a combination of two or more colors, styles, patterns, and/or weave constructions;
- have been subjected to, or composed of materials that have been subjected to, various treatments, including but not limited to dyeing, printing, foil stamping, embossing, flocking, coating, and/or sizing;
- have embellishments, including but not limited to appliqué, fringes, embroidery, buttons, glitter, sequins, laminates, and/or adhesive backing;
- have wire and/or monofilament in, on, or along the longitudinal edges of the ribbon;
- have ends of any shape or dimension, including but not limited to straight ends that are perpendicular to the longitudinal edges of the ribbon, tapered ends, flared ends or shaped ends, and the ends of such woven ribbons may or may not be hemmed;
- have longitudinal edges that are straight or of any shape, and the longitudinal edges of such woven ribbon may or may not be parallel to each other;
- consist of such ribbons affixed to like ribbon and/or cut–edge woven ribbon, a configuration also known as an ''ornamental trimming;''
- be wound on spools; attached to a card; hanked (*i.e.*, coiled or bundled); packaged in boxes, trays or bags; or configured as skeins, balls, bateaus or folds; and/or

[1] A public version of this and all public Department memoranda referenced herein are on file in the Central Records Unit (''CRU'') in Room 1117 of the main Department building.

- be included within a kit or set such as when packaged with other products, including but not limited to gift bags, gift boxes and/or other types of ribbon.

Narrow woven ribbons subject to the investigation include all narrow woven fabrics, tapes, and labels that fall within this written description of the scope of this investigation.

Excluded from the scope of the investigation are the following:
(1) formed bows composed of narrow woven ribbons with woven selvedge;
(2) ''pull–bows'' (*i.e.*, an assemblage of ribbons connected to one another, folded flat and equipped with a means to form such ribbons into the shape of a bow by pulling on a length of material affixed to such assemblage) composed of narrow woven ribbons;
(3) narrow woven ribbons comprised at least 20 percent by weight of elastomeric yarn (*i.e.*, filament yarn, including monofilament, of synthetic textile material, other than textured yarn, which does not break on being extended to three times its original length and which returns, after being extended to twice its original length, within a period of five minutes, to a length not greater than one and a half times its original length as defined in the Harmonized Tariff Schedule of the United States (''HTSUS''), Section XI, Note 13) or rubber thread;
(4) narrow woven ribbons of a kind used for the manufacture of typewriter or printer ribbons;
(5) narrow woven labels and apparel tapes, cut–to-length or cut–to-shape, having a length (when measured across the longest edge–to-edge span) not exceeding eight centimeters;
(6) narrow woven ribbons with woven selvedge attached to and forming the handle of a gift bag;
(7) cut–edge narrow woven ribbons formed by cutting broad woven fabric into strips of ribbon, with or without treatments to prevent the longitudinal edges of the ribbon from fraying (such as by merrowing, lamination, sono–bonding, fusing, gumming or waxing), and with or without wire running lengthwise along the longitudinal edges of the ribbon;
(8) narrow woven ribbons comprised at least 85 percent by weight of threads having a denier of 225 or higher;
(9) narrow woven ribbons constructed from pile fabrics (*i.e.*, fabrics with a surface effect formed by tufts or loops of yarn that stand up from the body of the fabric) ;
(10) narrow woven ribbon affixed (including by tying) as a decorative detail to non–subject merchandise, such as a gift bag, gift box, gift tin, greeting card or plush toy, or affixed (including by tying) as a decorative detail to packaging containing non–subject merchandise;
(11) narrow woven ribbon affixed to non–subject merchandise as a working component of such non–subject merchandise, such as where narrow woven ribbon comprises an apparel trimming, book marker, bag cinch, or part of an identity card holder; and
(12) narrow woven ribbon(s) comprising a belt attached to and imported with an item of wearing apparel, whether or not such belt is removable from such item of wearing apparel.

The merchandise subject to this investigation is classifiable under the HTSUS statistical categories 5806.32.1020; 5806.32.1030; 5806.32.1050 and 5806.32.1060. Subject merchandise also may enter under subheadings 5806.31.00; 5806.32.20; 5806.39.20; 5806.39.30; 5808.90.00; 5810.91.00; 5810.99.90; 5903.90.10; 5903.90.25; 5907.00.60; and 5907.00.80 and under statistical categories 5806.32.1080; 5810.92.9080; 5903.90.3090; and 6307.90.9889. The HTSUS statistical categories and subheadings are provided for convenience and customs purposes; however, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period for which we are measuring subsidies, *i.e.*, the period of investigation (''POI''), is January 1, 2008, through December 31, 2008.

Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination

On August 6, 2009, the Department initiated the CVD and AD investigations of Woven Ribbons from the PRC. *See Initiation Notice* and *Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China and Taiwan: Initiation of Antidumping Duty Investigations*, 74 FR 39291 (August 6, 2009). The CVD investigation and the AD investigation have the same scope with regard to the merchandise covered.

As noted above, on October 30, 2009, Petitioner submitted a letter requesting alignment of the final CVD determination with the final determination in the companion AD investigation of Woven Ribbons from the PRC. Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning these final determinations such that the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than April 19, 2010.

Application of the Countervailing Duty Law to Imports from the PRC

On October 25, 2007, the Department published *Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (''*CFS from the PRC*''), and the accompanying Issues and Decision Memorandum (''CFS Decision Memorandum''). In *CFS from the PRC*, the Department found that

> given the substantial differences between the Soviet–style economies and China's economy in recent years, the Department's previous decision not to apply the CVD law to these Soviet–style economies does not act as a bar to proceeding with a CVD investigation involving products from China.

See CFS Decision Memorandum at Comment 6. The Department has affirmed its decision to apply the CVD law to the PRC in subsequent final determinations. *See*, *e.g.*, *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008), and accompanying Issues and Decision Memorandum (''CWP Decision Memorandum'') at Comment 1.

Additionally, for the reasons stated in the CWP Decision Memorandum, we are using the date of December 11, 2001, the date on which the PRC became a member of the World Trade Organization, as the date from which the Department will identify and measure subsidies in the PRC. *See* CWP Decision Memorandum at Comment 2.

Use of Facts Otherwise Available and Adverse Inferences

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply ''facts otherwise available'' if, *inter alia*, necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(d) of the Act.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to

the best of its ability to comply with a request for information.

As noted above, Changtai was selected as a mandatory respondent. Changtai, however, did not provide the requested information necessary to determine a CVD rate for this preliminary determination and failed to provide information within the deadlines established by the Department. Specifically, Changtai did not respond to the Department's August 26, 2009 CVD questionnaire. Thus, in reaching our preliminary determination, pursuant to section 776(a)(2)(A) and (C) of the Act, we have based the CVD rate for Changtai on facts otherwise available.

We determine that an adverse inference is warranted, pursuant to section 776(b) of the Act. On September 15, 2009, consultants for Changtai notified the Department that Changtai would not participate in the investigation. By electing not to participate, Changtai has not cooperated to the best of its ability in this investigation.

In deciding which facts to use as adverse facts available (''AFA''), section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from: (1) the petition; (2) a final determination in the investigation; (3) any previous review or determination; or (4) any other information placed on the record. The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the rate is sufficiently adverse ''as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See*, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures ''that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* Statement of Administrative Action (''SAA'') accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103–316, Vol. I, at 870 (1994), reprinted at 1994 U.S.C.C.A.N 4040, 4199.

It is the Department's practice to select, as AFA, the highest calculated rate in any segment of the proceeding. *See*, *e.g.*, *Laminated Woven Sacks From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination, in Part, of Critical Circumstances*, 73 FR 35639 (June 24, 2008) (''*LWS from the PRC*''), and the accompanying Issues and Decision Memorandum at ''Selection of the Adverse Facts Available'' (''LWS Decision Memorandum''). In previous CVD investigations into products from the PRC, we have adapted this practice to use the highest rate calculated for the same or similar programs in other PRC CVD investigations. *See*, *e.g.*, *id.* Consistent with the Department's recent practice, we are preliminarily computing a total AFA rate for Changtai, generally using program–specific rates determined for the cooperating respondent or in past cases. Specifically, for programs other than those involving income tax exemptions and reductions, we will apply the highest calculated rate for the identical program in this investigation if a responding company used the identical program. If there is no identical program match within the investigation, we will use the highest non–*de minimis* rate calculated for the same or similar program in another PRC CVD investigation. Absent an above–*de minimis* subsidy rate calculated for the same or similar program, we will apply the highest calculated subsidy rate for any program otherwise listed that could conceivably be used by Changtai. *See*, *e.g.*, *Certain Kitchen Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 37012 (July 27, 2009) (''*Kitchen Racks from the PRC*''), and the accompanying Issues and Decision Memorandum at ''Use of Facts Available and Adverse Facts Available.''

Further, where the GOC can demonstrate through complete, verifiable, positive evidence that Changtai (including all its facilities and cross–owned affiliates) is not located in particular provinces whose subsidies are being investigated, the Department does not intend to include those provincial programs in determining the countervailable subsidy rate for Changtai. *See Certain Tow–Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 73 FR 42324 (July 21, 2008), and the accompanying Initiation Checklist. In supplemental questionnaire responses received to date, the GOC has failed to provide verifiable information demonstrating that Changtai is located in Fujian Province and has no facilities or cross–owned affiliates in any other province in the PRC, as requested. Therefore, the Department preliminarily makes the adverse inference that Changtai has facilities and/or cross–owned affiliates that received subsidies under all of the sub–national programs alleged prior to the selection of mandatory respondents.

Loans

For the ''Policy Loans to Narrow Woven Ribbons Producers from SOCBs'' program, we have applied the highest non–*de minimis* subsidy rate for any loan program in a prior PRC CVD investigation. This rate was 8.31 percent for the ''Government Policy Lending Program.'' *See Lightweight Thermal Paper from the People's Republic of China: Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order*, 73 FR 70958 (November 24, 2008).

Grants

For grant programs, Yama did not use ''State Key Technology Program Fund,'' ''Famous Brands,'' ''Export Assistance Grants,'' ''Export Interest Subsidy Funds for Enterprises Located in Zhejiang Province,'' and ''Technology Development Grants for Enterprises Located in Zhejiang Province'' programs. The Department has not calculated above *de minimis* rates for any of these programs in prior investigations and, moreover, all previously calculated rates for grant programs from prior PRC CVD investigations have been *de minimis*. Therefore, for each of these programs, we have determined to use the highest calculated subsidy rate for any program otherwise listed, which could conceivably have been used by Changtai. This rate was 13.36 percent for the ''Government Provision of Land for Less Than Adequate Remuneration.'' *See* LWS Decision Memorandum at 14–18.

Indirect Tax Credits and VAT/Tariff Reductions and Exemptions

For the seven indirect tax credit and rebate programs,[2] which Yama did not use, we have preliminarily determined to use the highest non–*de minimis* rate for any indirect tax program from a PRC CVD investigation. The rate we selected is 1.51 percent, which was the rate calculated for respondent Gold East

[2] ''Corporate Income Tax Refund Program for Reinvestment of FIE Profits in Export-Oriented Enterprises;'' ''Preferential Tax Policies for Township Enterprises;'' ''Preferential Tax Policies for Research and Development for FIEs;'' ''Tax Benefits for FIEs in Encouraged Industries that Purchase Domestic Equipment;'' ''Import Tariff and VAT Exemptions for FIEs Using Imported Technology and Equipment;'' ''Import Tariff and VAT Exemptions for Certain Domestic Enterprises Using Imported Technology and Equipment;'' ''VAT Rebate for FIE Purchases of Domestically Produced Equipment.''

Paper (Jiangsu) Co., Ltd. (GE) for the ''Value–added Tax and Tariff Exemptions on Imported Equipment,'' program. *See* CFS Decision Memorandum at 13–14.

Foreign–Invested Enterprise (''FIE'') Income Tax Rate Reduction and Exemption Programs

For the five income tax rate reduction or exemption programs,[3] we have applied an adverse inference that Changtai paid no income tax during the POI (*i.e.*, calendar year 2008). The standard income tax rate for corporations in the PRC is 30 percent, plus a three percent provincial income tax rate. Therefore, the highest possible benefit for these five income tax programs is 33 percent. We are applying the 33 percent AFA rate on a combined basis (*i.e.*, the five programs combined provided a 33 percent benefit). This 33 percent AFA rate does not apply to tax credit and refund programs.

For further explanation of the derivation of the AFA rates, *see* Memorandum to the File, ''Adverse Facts Available Rate'' (December 7, 2009) (''AFA Calculation Memo'').

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See e.g.*, SAA, at 870, 1994 U.S.C.C.A.N. at 4199. The Department considers information to be corroborated if it has probative value. *See id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. *See* SAA at 869, 1994 U.S.C.C.A.N. at 4199.

With regard to the reliability aspect of corroboration, we note that these rates were calculated in recent final CVD determinations. Further, the calculated rates were based upon verified information about the same or similar programs. Moreover, no information has been presented that calls into question the reliability of these calculated rates that we are applying as AFA. Finally, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company–specific benefits resulting from countervailable subsidy programs.

With respect to the relevance aspect of corroborating the rates selected, the Department will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. Where circumstances indicate that the information is not appropriate as AFA, the Department will not use it. *See Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

In the absence of record evidence concerning these programs due to Changtai's decision not to participate in the investigation, the Department has reviewed the information concerning PRC subsidy programs in this and other cases. For those programs for which the Department has found a program–type match, we find that, because these are the same or similar programs, they are relevant to the programs of this case. For the programs for which there is no program–type match, the Department has selected the highest calculated subsidy rate for any PRC program from which Changtai could receive a benefit to use as AFA. The relevance of this rate is that it is an actual calculated CVD rate for a PRC program from which Changtai could actually receive a benefit. Further, this rate was calculated for a period close to the POI in the instant case. Moreover, Changtai's failure to respond to requests for information has ''resulted in an egregious lack of evidence on the record to suggest an alternative rate.'' *Shanghai Taoen Int'l Trading Co., Ltd. v. United States*, 360 F. Supp. 2d 1339, 1348 (Ct. Int'l Trade 2005). Due to the lack of participation by Changtai and the resulting lack of record information concerning these programs, the Department has corroborated the rates it selected to the extent practicable.

On this basis, we preliminarily determine that the AFA countervailable subsidy rate for Changtai is 118.68 percent *ad valorem*. *See* AFA Calculation Memo.

Subsidies Valuation Information

Allocation Period

The average useful life (''AUL'') period in this proceeding, as described in 19 CFR 351.524(d)(2), is 10 years according to the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System. *See* U.S. Internal Revenue Service Publication 946 (2007), *How to Depreciate Property*, at Table B–2: Table of Class Lives and Recovery Periods. No party in this proceeding has disputed this allocation period.

Attribution of Subsidies

The Department's regulations at 19 CFR 351.525(b)(6)(i) state that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) direct that the Department will attribute subsidies received by certain other companies to the combined sales of those companies if (1) cross–ownership exists between the companies, and (2) the cross–owned companies produce the subject merchandise, are a holding or parent company of the subject company, produce an input that is primarily dedicated to the production of the downstream product, or transfer a subsidy to a cross–owned company. The Court of International Trade has upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits. *See Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 604 (Ct. Int'l Trade 2001).

According to 19 CFR 351.525(b)(6)(vi), cross–ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This regulation states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations.

Yama responded to the Department's questionnaire on behalf of itself, a Hong Kong–owned foreign invested enterprise, and an affiliated trading company, Xiamen Yama Import and Export Co., Ltd. (''Yama Trading''). Based on information reported by Yama, we preliminarily determine that cross–ownership exists between Yama and Yama Trading as both companies have the same owners. However, according to the company's responses, Yama Trading

[3] Preferential Tax Policies for Enterprises with Foreign Investment (''Two Free, Three Half'' Program''); ''Tax Subsidies to FIEs in Specially Designated Areas;'' ''Preferential Tax Policies for Export-Oriented FIEs;'' ''Tax Program for High or New Technology FIEs'', and ''Local Income Tax Exemption or Reduction Program for ''Productive'' FIEs.''

did not benefit from any countervailable subsidies during the POI.

In its questionnaire responses, Yama also acknowledged that it has several other affiliated companies in addition to Yama Trading. However, Yama reported that these affiliates do not produce the subject merchandise and do not provide inputs to Yama. Therefore, because these companies do not produce subject merchandise or otherwise fall within the situations described in 19 CFR 351.525(b)(6)(iii)-(v), we do not reach the issue of whether these companies and Yama are cross–owned within the meaning of 19 CFR 351.525(b)(6)(iii)-(vi).

Analysis of Programs

Based upon our analysis of the petition and the responses to our questionnaires, we determine the following:

I. Programs Preliminarily Determined To Be Countervailable

A. Tax Subsidies to FIEs in Specially Designated Areas

To promote economic development and attract foreign investment, ''productive'' FIEs located in coastal economic zones, special economic zones or economic and technical development zones in the PRC receive preferential tax rates of 15 percent or 24 percent, depending on the zone, under Article 7 of the *Foreign Investment Enterprise Tax Law (''FIE Tax Law'')*. *See* GQR, at Exhibit G–1.

The Department has previously found this program to be countervailable. *See CFS from the PRC* and CFS Decision Memorandum at 12 (Analysis of Programs, I. Programs Determined to be Countervailable for GE, C. Reduced Income Tax Rates for FIEs Based on Location), *Lightweight Thermal Paper From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008), and the accompanying Issues and Decision Memorandum at 15 (Analysis of Programs, I. Programs Determined to be Countervailable, D. Reduced Income Tax Rates for FIEs Based on Location) and *Kitchen Racks from the PRC* and the accompanying Issues and Decision Memorandum at 11 (Analysis of Programs, I. Programs Determined to be Countervailable, A. Income Tax Reduction for FIEs Based on Geographic Location).

Yama is located in Xiamen city, a special economic zone, and was subject to the reduced income tax rate of 15 percent for the tax returned filed during the POI. *See* YSQR2 at 1.

We preliminarily determine that the reduced income tax rate paid by productive FIEs under this program confers a countervailable subsidy. The reduced rate is a financial contribution in the form of revenue forgone by the GOC and it provides a benefit to the recipient in the amount of the tax savings. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We further determine preliminarily that the reduction afforded by this program is limited to enterprises located in designated geographic regions and, hence, is specific under section 771(5A)(D)(iv) of the Act.

To calculate the benefit, we treated Yama's income tax savings as a recurring benefit, consistent with 19 CFR 351.524(c)(1), and divided the company's tax savings received during the POI by the company's total sales during that period. To compute the amount of the tax savings, we compared the income tax rate Yama would have paid in the absence of the program (30 percent) with the rate it paid (15 percent).

On this basis, we preliminarily determine that Yama received a countervailable subsidy of 0.24 percent *ad valorem* under this program.

B. Local Income Tax Exemption and Reduction Programs for ''Productive'' Foreign–Invested Enterprises

Under Article 9 of the *FIE Tax Law*, the provincial governments have the authority to exempt FIEs from the local income tax of three percent. *See* GQR at Exhibit G–1. The Department has previously found this program to be countervailable. *See*, *e.g.*, CFS Decision Memorandum at 12–13 and *Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 16836 (April 13, 2009), and accompanying Issues and Decision Memorandum at 21.

In Yama's tax return filed for 2007, it reported not paying any local income tax during the POI. *See* YSQR 1 at Exhibit S–1.

We preliminarily determine that the exemption from or reduction in the local income tax received by ''productive'' FIEs under this program confers a countervailable subsidy. The exemption or reduction is a financial contribution in the form of revenue forgone by the government and it provides a benefit to the recipient in the amount of the tax savings. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We also preliminarily determine that the exemption or reduction afforded by this program is limited as a matter of law to certain enterprises, *i.e.*, ''productive'' FIEs and, hence, is specific under section 771(5A)(D)(i) of the Act.

To calculate the benefit for Yama, we treated the income tax savings enjoyed by the company as a recurring benefit, consistent with 19 CFR 351.524(c)(1). To compute the amount of the tax savings, we compared the local income tax rate that the companies would have paid in the absence of the program (*i.e.*, three percent) with the income tax rate the company actually paid.

For Yama, we divided the company's tax savings received during the POI by its total sales. On this basis, we preliminarily determine that Yama received a countervailable subsidy of 0.05 percent *ad valorem* under this program.

II. Programs For Which More Information Is Required

Other Subsidies

Section 775 of the Act, requires the Department to investigate any other potential subsidies it discovers during the course of this investigation that pertain to the manufacture, production, or exportation of the subject merchandise. In its supplemental questionnaire response, Yama reported that it received eleven subsidies under programs that were not alleged by Petitioner in this investigation. *See* YSQR1 at 6.

As indicated in the Case History section above, on November 19, 2009, the Department requested additional information on these subsidy programs which is still outstanding. We plan to issue a post–preliminary analysis so that parties will have an opportunity to comment on our findings prior to our final determination.

III. Programs Preliminarily Determined To Be Not Used By Yama or To Not Provide Benefits During the POI

Based upon responses and factual information submitted by the GOC and Yama, we preliminarily determine that Yama did not apply for or receive benefits during the POI under the programs listed below.

A. Loan Programs

1. Policy Loans to Narrow Woven Ribbon Producers from State–Owned Commercial Banks

B. Grant Programs

2. The State Key Technology Renovation Project Fund
3. Famous Brands Program
4. Export Assistance Grants
5. Export Interest Subsidy Funds for Enterprises Located in Zhejiang Province
6. Technology Grants for Enterprises

Located in Zhejiang Province

C. Indirect Tax Credits and VAT/Tariff Reductions and Exemptions

7. Import Tariff and VAT Exemptions for FIEs Using Imported Technology and Equipment
8. Import Tariff and VAT Exemptions for Certain Domestic Enterprises Using Imported Technology and Equipment
9. VAT Rebate for FIE Purchases of Domestically Produced Equipment
10. Corporate Income Tax Refund Program for Reinvestment of FIE Profits in Export-Oriented Enterprises
11. Preferential Tax Policies for Township Enterprises

D. Foreign–Invested Enterprise (FIE) Income Tax Rate Reduction and Exemption Programs

12. Preferential Tax Policies for Enterprises with Foreign Investment (''Two Free, Three Half'') Program
13. Preferential Tax Policies for Export–Oriented FIEs
14. Tax Program for High or New Technology FIEs
15. Preferential Tax Policies for Research and Development for FIEs
16. Tax Benefits for FIEs in Encouraged Industries that Purchase Domestic Equipment

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by the respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual rate for each producer/exporter of the subject merchandise individually investigated. We preliminarily determine the total estimated net countervailable subsidy rates to be:

Exporter/Manufacturer	Net Subsidy Rate (%)
Yama Ribbons and Bows Co., Ltd.	0.29 (*de minimis*)
Changtai Rongshu Textile Co., Ltd.	118.68
All–Others	59.49

Sections 703(d) and 705(c)(5)(A) of the Act states that for companies not investigated, we will determine an ''all others'' rate by weighting the individual company subsidy rate of each of the companies investigated by the company's exports of the subject merchandise to the United States. The ''all others'' rate normally does not include zero and *de minimis* rates or any rates based solely on the facts available. In this investigation, the net subsidy rate calculated for the two investigated companies are either de minimis or based entirely on AFA under section 776 of the Act. There is no information on the record upon which we could determine an all–others rate. As a result, we have calculated the all–others rate as a simple average of Changtai's AFA rate and Yama's *de minimis* rate. *See*, *e.g.*, *LWS from the PRC* and LWS Decision Memorandum at Comment 21.

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing U.S. Customs and Border Protection to suspend liquidation of all entries of Woven Ribbons from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of merchandise in the amounts indicated above. However, because the estimated CVD rate for Yama is *de minimis*, liquidation will not be suspended and no cash deposits or bonds are required for merchandise produced and exported by that company.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non–privileged and non–proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Disclosure and Public Comment

In accordance with 19 CFR 351.224(b), we will disclose to the parties the calculations for this preliminary determination within five days of its announcement. Due to the anticipated timing of verification and issuance of verification reports, case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. *See* 19 CFR 351.309(c)(i) (for a further discussion of case briefs). Rebuttal briefs must be filed within five days after the deadline for submission of case briefs, pursuant to 19 CFR 351.309(d)(1). A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. *See* 19 CFR 351.309(c)(2) and (d)(2).

Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will be held two days after the deadline for submission of the rebuttal briefs, pursuant to 19 CFR 351.310(d), at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, N.W., Washington, DC 20230, within 30 days of the publication of this notice, pursuant to 19 CFR 351.310(c). Requests should contain: (1) the party's name, address, and telephone; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. *See id.*

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: December 4, 2009.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E9–29725 Filed 12–11–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No.: PTO–P–2009–0020]

Procedure for Treating Rejected Claims That Are Not Being Appealed

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Request for comments.

SUMMARY: The United States Patent and Trademark Office (USPTO) is considering changes to the procedure for handling notices of appeal and appeal briefs that identify fewer than all of the rejected claims as being appealed. Under the proposed procedure, if appellant files a notice of appeal, or an appeal brief, that clearly identifies fewer than all of the rejected claims as being appealed, the non-appealed rejected claims would be deemed canceled by operation of this action on the part of the appellant as of the date on which such a notice of appeal, or appeal brief, is filed, regardless of whether the appellant also files an amendment canceling the non-appealed rejected claims. The USPTO is requesting comments from the public regarding the proposed procedure set forth in this notice.

COMMENT DEADLINE DATE: To be ensured of consideration, written comments must be received on or before January 13, 2010. No public hearing will be held.

ADDRESSES: Written comments should be sent by electronic mail message over the Internet addressed to *PatentPractice@uspto.gov.* Comments may also be submitted by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, marked to the attention of Joni Y. Chang. Although comments may be submitted by mail, the Office prefers to receive comments via the Internet.

The written comments will be available for public inspection at the Office of the Commissioner for Patents, located in Madison East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia, and will be available via the Office's Internet Web site (address: *http://www.uspto.gov*). Because comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: Joni Y. Chang, Senior Legal Advisor, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, directly by telephone to (571) 272–7720, or by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450.

SUPPLEMENTARY INFORMATION: The USPTO is considering changes to the procedure for handling notices of appeal and appeal briefs that identify fewer than all of the rejected claims as being appealed, in view of *Ex parte Ghuman,* 88 USPQ2d 1478 (Bd. Pat. App. & Int. 2008) (precedential) (provides for remand by the Board of Patent Appeals and Interferences (BPAI) if the examiner does not cancel claims identified as being not on appeal; the non-appealed rejected claims were considered withdrawn from the appeal where appellant limited the appeal to fewer than all of the pending rejected claims in the appeal brief). The USPTO is requesting comments from the public regarding the proposed procedure set forth in this notice because the USPTO desires the benefit of public comment. The USPTO will consider and address any relevant comments received.

Background: After receiving a notification of an Office action that contains one or more rejections, applicant must file a reply to the Office action within the time period for reply set forth in the Office action to avoid abandonment of the application. *See* 35 U.S.C. 133. Pursuant to 35 U.S.C. 134, applicant may appeal the examiner's decision to the BPAI by filing a notice of appeal under 37 CFR 41.31 if at least one claim has been twice rejected. 37 CFR 1.113(c) provides that a reply to a final Office action is required to include cancellation of each rejected claim or appeal from the rejection of each rejected claim. For a reply to a non-final Office action, the applicant must address every ground of rejection set forth in the non-final action or cancel each rejected claim subject to any ground of rejection not addressed in the reply. *See* 37 CFR 1.111(b).

There is no provision in 35 U.S.C. 134 or 37 CFR 1.113 for an applicant to appeal only a part of the examiner's decision. An appeal under 37 CFR 41.31 must be taken from the rejection of all claims under rejection which the applicant proposes to contest. *See* 37 CFR 41.31(c). In order to treat a notice of appeal as a proper reply to the Office action, the notice of appeal is considered an appeal to the entire examiner's decision, provided that the notice of appeal is accompanied by the required fee set forth in 37 CFR 41.20(b)(1) and is filed within the time period for reply set forth in the Office action. Therefore, if appellant does not wish to contest one of the rejected claims, appellant must file an amendment canceling that claim. The amendment must be filed separately from the notice of appeal and appeal brief.

Notwithstanding the provisions of 35 U.S.C. 133 and 134, and 37 CFR 1.111(b) and 1.113(c), some appellants file notices of appeal or appeal briefs that attempt to limit the appeal to fewer than all of the rejected claims without filing an amendment to cancel the non-appealed rejected claims. It has long been USPTO practice that an appellant must either appeal from the rejection of all of the rejected claims or cancel those claims not being appealed. *See Ex parte Benjamin,* 1903 Dec. Comm. Pat. 132, 134 (1903). Thus, attempts to limit an appeal to fewer than all of the rejected claims, either by filing a notice of appeal or appeal brief that attempts to limit the appeal to fewer than all of the rejected claims, operates to withdraw the appeal as to the non-appealed rejected claims and operates as a cancellation of those claims from the application. *See* Manual of Patent Examining Procedure (MPEP) § 1215.03.

Proposed Procedure: Under the proposed procedure, if appellant clearly limits the appeal to fewer than all of the rejected claims in a notice of appeal, or an appeal brief, the non-appealed rejected claims would be deemed canceled by operation of this action on the part of the appellant as of the date on which such a notice of appeal, or appeal brief, is filed. The examiner should note in the examiner's answer that the non-appealed rejected claims are deemed canceled. However, a failure to note the cancellation of non-appealed rejected claims will not affect the canceled status of these claims because the non-appealed rejected claims are deemed canceled as of the date on which the notice of appeal, or appeal brief, is filed. Therefore, an application will not be returned or remanded by the BPAI for correction merely due to a failure of an examiner's answer to note the cancellation of non-appealed rejected claims. After the decision by the BPAI and the jurisdiction is transferred back to the examiner for further action, or the prosecution is reopened without a decision by the BPAI, the examiner will notify appellant of the cancellation of the non-appealed rejected claims in the next Office action, unless the application is abandoned. For example, the examiner may include the following statement in the examiner's answer or in the next Office action after a BPAI decision: ''Claims 4–5 are deemed canceled because appellant

attempted to limit the appeal to fewer than all of the rejected claims by submitting an identification of claims being appealed that did not include these rejected claims in the notice of appeal or the appeal brief.''

37 CFR 41.31 does not provide for an identification of the claims whose rejection is being appealed. A notice of appeal that does not identify any claims would be accepted as an appeal of all of the rejected claims, unless the appeal brief indicates otherwise. Therefore, if appellant files a notice of appeal and appeal brief that do not clearly limit the appeal to fewer than all of the rejected claims, all of the rejected claims would be considered to be on appeal. The BPAI will have the jurisdiction to review the examiner's decision as to all of the rejected claims and all of the grounds of rejection set forth by the examiner.

If a notice of appeal does not identify the claims on appeal and its appeal brief contains inconsistency regarding whether all of the rejected claims are being appealed (*e.g.,* appellant lists fewer than all of the rejected claims in the status of claims section of the appeal brief and then lists all of the rejected claims in the grounds of rejection to be reviewed on appeal section, or other sections, of the appeal brief), all of the rejected claims would be considered to be on appeal. If a notice of appeal does not identify the claims on appeal and all of the sections of its appeal brief consistently identify fewer than all of the rejected claims being appealed, then the appeal brief has clearly limited the appeal to fewer than all of the rejected claims and the non-appealed rejected claims will be deemed canceled by operation of the filing of such an appeal brief as of the date on which the appeal brief is filed.

The proposed procedure will apply to notices of appeal and appeal briefs filed under 37 CFR 41.31 and 41.37. Similarly, the proposed procedure will also apply to notices of appeal or cross appeal and appeal briefs filed by patent owners in *ex parte* and *inter partes* reexamination proceedings.

Dated: December 8, 2009.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. E9–29641 Filed 12–11–09; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In–Quota Rate of Duty

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 14, 2009.

FOR FURTHER INFORMATION CONTACT: Gayle Longest, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230, telephone: (202) 482–3338.

SUPPLEMENTARY INFORMATION: Section 702 of the Trade Agreements Act of 1979 (as amended) (''the Act'') requires the Department of Commerce (''the Department'') to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in–quota rate of duty, as defined in section 701(c)(1) of the Act, and to publish an annual list and quarterly updates to the type and amount of those subsidies. We hereby provide the Department's quarterly update of subsidies onarticles of cheese that were imported during the period July 1, 2009, through September 30, 2009.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h)(2) of the Act and section 771(5) of the Tariff Act of 1930, as amended (''Tariff Act'')), being provided either directly or indirectly by foreign governments on articles of cheese subject to an in–quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available. The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in–quota rate of duty to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230.

This determination and notice are in accordance with section 702(a)(2) of the Act.

Dated: December 3, 2009.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

APPENDIX
SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN–QUOTA RATE OF DUTY

Country	Program(s)	Gross[1] Subsidy($/lb)	Net[2] Subsidy($/lb)
27 European Union Member States[3] ..	European Union Restitution Payments	$0.00	$0.00
Canada	Export Assistance on Certain Types of Cheese	$ 0.32	$0.32
Norway	Indirect (Milk) Subsidy	$ 0.00	$0.00
.....	Consumer Subsidy	$ 0.00	$ 0.00
.....	Total	$ 0.00	$ 0.00
Switzerland	Deficiency Payments	$ 0.00	$ 0.00

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).
[3] The 27 member states of the European Union are: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

[FR Doc. E9–29729 Filed 12–11–09; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 09–69, 09–70, and 09–74]

36(b)(1) Arms Sales Notifications

AGENCY: Defense Security Cooperation Agency, DoD.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of three section 36(b)(1) arms sales notifications to fulfill the requirements of section 155 of Public Law 104–164, dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

SUPPLEMENTARY INFORMATION:

Transmittal No. 09–69

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 09–69 with attached transmittal, policy justification, and Sensitivity of Technology.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

DEC 3 2009

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 09-69, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to the United Arab Emirates for defense articles and services estimated to cost $2 billion. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Jeffrey A. Wieringa
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified Document Provided Under Separate Cover)

Transmittal No. 09-69

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: United Arab Emirates

(ii) Total Estimated Value:

Major Defense Equipment*	$ 1.400 billion
Other	$ .600 billion
TOTAL	$ 2.000 billion

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: sixteen CH-47F CHINOOK Helicopters, 38 T55-GA-714A Turbine engines, 20 AN/APX-118 Transponders, 20 AN/ARC-220 (RT-1749) Single Channel Ground and Airborne Radio Systems (SINCGARS) with Electronic counter-countermeasures, 40 AN/ARC-231 (RT-1808A) Receiver/Transmitters, 18 AN/APR-39A(V)1 Radar Signal Detecting Sets with Mission Data Sets, flight and radar signal simulators, support equipment, spare and repair parts, publications and technical documentation, site survey, construction and facilities, U.S. Government and contractor technical and logistics support services, and other related elements of logistics support.

(iv) Military Department: Army (ZAF)

(v) Prior Related Cases, if any: None

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached

(viii) Date Report Delivered to Congress: DEC 3 2009

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

United Arab Emirates – CH-47F CHINOOK Helicopters

The Government of United Arab Emirates (UAE) has requested a possible sale of sixteen CH-47F CHINOOK Helicopters, 38 T55-GA-714A Turbine engines, 20 AN/APX-118 Transponders, 20 AN/ARC-220 (RT-1749) Single Channel Ground and Airborne Radio Systems (SINCGARS) with Electronic counter-countermeasures, 40 AN/ARC-231 (RT-1808A) Receiver/Transmitters, 18 AN/APR-39A(V)1 Radar Signal Detecting Sets with Mission Data Sets, flight and radar signal simulators, support equipment, spare and repair parts, publications and technical documentation, site survey, construction and facilities, U.S. Government and contractor technical and logistics support services, and other related elements of logistics support. The estimated cost is $2.0 billion.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a critical and key partner/ally, which has been, and continues to be, an important force for political stability and economic progress in the Middle East.

The proposed sale will provide the United Arab Emirates the capability to transport equipment and troops in the region, as well as to support U.S. and NATO airlift requirements in Afghanistan.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be Boeing Integrated Defense Systems in St. Louis, Missouri. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of four contractor representatives in the UAE for a period of one year with an option for two additional years. One additional U.S. government and four contractor representatives will be required for a one-week interval for quality assurance during helicopter delivery.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 09-69

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The CH-47F CHINOOK is a medium lift helicopter, remanufactured from CH-47D aircraft with the Common Avionics Architecture System (CAAS) cockpit, which provides aircraft system, flight, mission, and communication management systems, five multifunction displays, two general purpose processor units, two control display units and two data concentrator units. The Navigation System will have two Embedded GPS/INS, two Digital Advanced Flight Control Systems (DAFCS), one ARN-149 Automatic Direction Finder, one ARN-147 (VOR/ILS marker Beacon System), one ARN-153 TACAN, two air data computers, and one Radar Altimeter system. The aircraft survivability equipment includes the APR-39A(V)1 Radar Signal Detecting Set, AN/AAR-57 Common Missile Warning System which consists of the AN/ALQ-212 Advanced Threat Infrared Countermeasures. The CH-47F CHINOOK Helicopter includes the following sensitive and/or classified, up to and including, Secret components:

a. The AN/ARC-201E Single Channel Ground and Airborne Radio System (SINCGARS) is a tactical airborne radio subsystem that provides secure, anti-jam voice and data communication. The enhanced Data Modes (EDM) of the radio employs a Reed-Solomon Forward Error Correction (FEC) technique that provides enhanced bit-error-rate performance. The EDM Packet Data Mode supports packet data transfer from the airborne host computer to another airborne platform or the ground-based equivalent SINCGARS system. Performance capabilities, ECM/ECCM specifications and Engineering Change Orders (ECOs) are classified Secret.

b. The AN/APX-118 transponder system provides automatic radar identification of the helicopter. The system receives, decodes, and replies to interrogations on modes 1,2,3/A,4.C and S from all suitable equipped challenging airborne and ground facilities. The receiver operates on 1,300 MHZ and the transmitter section operates on a frequency of 1090MHZ. Because these frequencies are in the UHF band, the operational range is limited to line-of-site. The transponder is classified Secret if MODE IV or MODE S fill is installed in the equipment with a crypto device.

c. The AN/APR-39A(V)1 Radar Detecting Set (RDS) is a lightweight radar receiver for general aircraft application used on the majority of U.S. Army aircraft platforms to

include the CH-47F aircraft. The system provides warning of radar directed threats to allow appropriate evasive maneuvers and deployment of chaff. The system has the capability of detecting all pulse radar normally associated with hostile surface-to-air missiles, airborne intercepts and anti-aircraft weapon systems. The system has 10 individually housed components consisting of one control, one indicator, one comparator, two receivers, two left spiral antennas, two right spiral antennas and one blade antenna. The AN/APR-39 Series Radar Detecting Sets (RDS) are sensitive items and classified Secret if the Unit Data Module has threat data software installed.

d. The AN/AAR-57 Common Missile Warning System detects threat missiles in flight, evaluates potential false alarms, declares validity of threat and selects appropriate Infrared Counter Measures (IRCM). Includes Electro-Optical Missile Sensors, Electronic Control Unit (ECU), Sequencer and Improved Countermeasures Dispenser (ICMD). The hardware is classified Confidential; releasable technical manuals for operation and maintenance are classified Secret.

e. The AN/ARC-231 Receiver/Transmitter, RT-1808A is an airborne VHF/UHF Line-of-Sight with frequency agile modes, UHF Satellite Communications (SATCOM), and Demand Assigned Multiple Access (DAMA) Radio System. The ARC-231 provides airborne, multi-band, multi-mission, secure anti-jam voice, data and imagery network capable communications in a compact radio set. The AN/ARC-231 is classified as a Controlled Cryptographic Item (CCI); however, depending upon the software load, this radio may be classified as Secret.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

Transmittal No. 09–70

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 09–70 with attached transmittal, policy justification, and Sensitivity of Technology.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

DEC 07 2009

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 09-70, concerning the Department of the Army's proposed Letters(s) of Offer and Acceptance to Turkey for defense articles and services estimated to cost $1.2 billion. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with the principles set forth in subsection 620C(b) of that Act as codified in section 2373 of title 22, United States Code.

Sincerely,

Jeffrey A. Weringa
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Section 620C(d)

Transmittal No. 09-70

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Turkey

(ii) Total Estimated Value:

Major Defense Equipment*	$ .800 billion
Other	$ .400 billion
TOTAL	$1.200 billion

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: fourteen CH-47F CHINOOK Helicopters, 32 T55-GA-714A Turbine engines, 28 AN/ARC-201E Single Channel Ground and Airborne Radio Systems (SINCGARS), 14 AN/APR-39A(V)1 Radar Signal Detecting Sets, support equipment, special tools and test equipment, spare and repair parts, publications and technical documentation, site survey, personnel training and training equipment, ferry services, U.S. Government and contractor technical and logistics support services, and other related elements of logistics support.

(iv) Military Department: Army (VCQ)

(v) Prior Related Cases, if any: None

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex Attached

(viii) Date Report Delivered to Congress: DEC 07 2009

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Turkey – CH-47F CHINOOK Helicopters

The Government of the Turkey has requested a possible sale of fourteen CH-47F CHINOOK Helicopters, 32 T55-GA-714A Turbine engines, 28 AN/ARC-201E Single Channel Ground and Airborne Radio Systems (SINCGARS), 14 AN/APR-39A(V)1 Radar Signal Detecting Sets, support equipment, special tools and test equipment, spare and repair parts, publications and technical documentation, site survey, personnel training and training equipment, ferry services, U.S. Government and contractor technical and logistics support services, and other related elements of logistics support. The estimated cost is $1.2 billion.

Turkey is a partner of the United States in ensuring peace and stability in the region. It is vital to the U.S. national interest to assist our North Atlantic Treaty Organization (NATO) ally in developing and maintaining a strong and ready self-defense capability that will contribute to an acceptable military balance in the area. This proposed sale is consistent with those objectives.

The proposed sale will improve Turkey's capability to meet current and future requirements for troop movement, medical evacuation, aircraft recovery, parachute drop, search and rescue, disaster relief, fire-fighting, and heavy construction. Turkey will use these helicopters to strengthen its homeland defense, deter regional threats, and improve humanitarian and disaster mobilization and response.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be the Boeing Company of Ridley Park, Pennsylvania. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Turkey.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 09-70

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The CH-47F CHINOOK is a medium lift helicopter, remanufactured from CH-47D aircraft with the Common Avionics Architecture System (CAAS) cockpit, which provides aircraft system, flight, mission, and communication management systems, five multifunction displays, two general purposed processor units, two control display units and two data concentrator units. The Navigation System will have two Embedded GPS/INS, two Digital Advanced Flight Control Systems (DAFCS), one ARN-149 Automatic Direction Finder, one ARN-147 (VOR/ILS marker Beacon System), one ARN-153 TACAN, two air data computers, and one Radar Altimeter system. The aircraft survivability equipment includes the APR-39A(V)1 Radar Signal Detecting Set, AN/AAR-57 Common Missile Warning System which consists of the AN/ALQ-212 Advanced Threat Infrared Countermeasures. The CH-47F CHINOOK Helicopter includes the following sensitive and/or classified, up to and including, Secret components:

a. The AN/ARC-201E Single Channel Ground and Airborne Radio System (SINCGARS) is a tactical airborne radio subsystem that provides secure, anti-jam voice and data communication. The enhanced Data Modes (EDM) of the radio employs a Reed-Solomon Forward Error Correction (FEC) technique that provides enhanced bit-error-rate performance. The EDM Packet Data Mode supports packet data transfer from the airborne host computer to another airborne platform or the ground-based equivalent SINCGARS system. Performance capabilities, ECM/ECCM specifications and Engineering Change Orders (ECOs) are classified Secret.

b. The AN/APX-118 transponder system provides automatic radar identification of the helicopter. The system receives, decodes, and replies to interrogations on modes 1,2,3/A,4.C and S from all suitable equipped challenging airborne and ground facilities. The receiver operates on 1,300 MHZ and the transmitter section operates on a frequency of 1090MHZ. Because these frequencies are in the UHF band, the operational range is limited to line-of-site. The transponder is classified Secret if MODE IV or MODE S fill is installed in the equipment with a crypto device.

c. The AN/APR-39A(V)1 Radar Detecting Set (RDS) is a lightweight radar receiver for general aircraft application used on the majority of U.S. Army aircraft platforms to include the CH-47F aircraft. The system provides warning of radar directed threats to allow appropriate evasive maneuvers and deployment of chaff. The system has the capability of detecting all pulse radar normally associated with hostile surface-to-air missiles, airborne intercepts and anti-aircraft weapon systems. The system has 10 individually housed components consisting of one control, one indicator, one comparator, two receivers, two left spiral antennas, two right spiral antennas and one blade antenna. The AN/APR-39 Series Radar Detecting Sets (RDS) are sensitive items and classified Secret if the Unit Data Module has threat data software installed.

d. The AN/AAR-57 Common Missile Warning System detects threat missiles in flight, evaluates potential false alarms, declares validity of threat and selects appropriate Infrared Counter Measures (IRCM). Includes Electro-Optical Missile Sensors, Electronic Control Unit (ECU), Sequencer and Improved Countermeasures Dispenser (ICMD). The hardware is classified Confidential; releasable technical manuals for operation and maintenance are classified Secret.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures, which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

UNCLASSIFIED

CERTIFICATION PURSUANT TO § 620C(d) OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

Pursuant to Section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), Executive Order 12163 and State Department Delegation of Authority No. 293-1, I hereby certify that the furnishing to Turkey of 14 CH-47F Chinook Helicopters, 32 T55-GA-714A turbine engine, 28 AN/ARC-201E Single Channel Ground and Airborne Radio Systems (SINCGARS), 14 An/APR-39A(V)1 Radar Signal Detecting Sets, support equipment, special tools and test equipment, spare and repair parts, publications and technical documentation, site survey, personnel training and training equipment, ferry services, U.S. government and contractor technical and logistic support services, and other related elements of logistics support is consistent with the principles contained in Section 620C(b) of the Act.

This certification will be made part of the notification to Congress under Section 36(b) of the Arms Export Control Act, as amended, regarding the proposed sale of the above-named articles and services and is based on the justification accompanying such notification (see Tab 1), of which such justification constitutes a full explanation.

Ellen O. Tauscher
Under Secretary of State for
Arms Control and International Security

UNCLASSIFIED

Transmittal No. 09–74

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 09–74 with attached transmittal, and policy justification.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

DEC 07 2009

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No.09-74, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to the Hashemite Kingdom of Jordan for defense articles and services estimated to cost $75 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Beth M. McCormick
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Regional Balance (Classified Document Provided Under Separate Cover)

Transmittal No. 09-74

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
Of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Jordan

(ii) Total Estimated Value:

Major Defense Equipment*	$ 0 million
Other	$75 million
TOTAL	$75 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: establish a Material Management Program for repair and return of 61 F100-PW-220E engine modules, support and test equipment, spare and repair parts, publications and technical documentation, U.S. Government and contractor engineering and logistics personnel services, and other related elements of logistics and program support.

(iv) Military Department: Air Force (QAW)

(v) Prior Related Cases: None

(vi) Sales Commission, Fee, etc., Paid, offered, or Agreed to be Paid: None

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: None

(viii) Date Report Delivered to Congress: DEC 07 2009

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Jordan – Material Management Program for F100-PW-220E Engines

The Hashemite Kingdom of Jordan has requested a possible sale to establish a Material Management Program for repair and return of 61 F100-PW-220E engine modules, support and test equipment, spare and repair parts, publications and technical documentation, U.S. Government and contractor engineering and logistics personnel services, and other related elements of logistics and program support. The estimated cost is $75 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a Major Non-NATO Ally which has been, and continues to be, an important force for political stability and economic progress in the Middle East.

The proposed sale will improve Jordan's capability to meet current and future threats. Jordan will use the enhanced capability as a deterrent to regional threats and to strengthen its homeland defense. Jordan currently has forty-seven F-16s in its inventory and plans to field an additional fifteen in the next year. The requested F100-PW-220E engines are essential in the serviceability of its F-16 fleet.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be Pratt & Whitney of East Hartford, Connecticut. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Jordan. However, this program will require up to 4 U.S. government and 4 contractor representatives to participate in bi-annual Program Management Reviews in Jordan and the U.S. for a period of approximately one week.

There will be no adverse impact on the U.S. defense readiness as a result of this proposed sale.

Dated: December 9, 2009.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–29650 Filed 12–11–09; 8:45 am]

BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Business Board (DBB) Meeting

AGENCY: Department of Defense (DoD).

ACTION: Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the Defense Business Board (DBB) will meet on January 21, 2010. Subject to the availability of space, the meeting is open to the public.

DATES: The public meeting will be held on Thursday, January 21, 2010, from 9:00 a.m. to 11:30 a.m.

ADDRESSES: The meeting will be held at the Pentagon, Room 3E–863, Washington, DC (escort required, see the **SUPPLEMENTARY INFORMATION** section of this notice for further information).

FOR FURTHER INFORMATION CONTACT: For meeting information please contact Ms. Debora Duffy, Defense Business Board, 1155 Defense Pentagon, Room 5B–1088A, Washington, DC 20301–1155, *Debora.duffy@osd.mil*, (703) 697–2168.

The Board's Designated Federal Officer is Ms. Phyllis Ferguson, Defense Business Board, 1155 Defense Pentagon, Room 5B–1088A, Washington, DC 20301–1155, *Phyllis.ferguson@osd.mil*, (703) 695–7563.

SUPPLEMENTARY INFORMATION: During this meeting, the Board will deliberate findings and recommendations from five Task Groups: (1) ''Reducing Acquisition Costs by Applying Best Business Practices to Fixed-Price Contracting,'' (2) ''Managing DoD Under Sustained Topline Pressures,'' (3) ''Recommendations for Insourcing the Acquisition Workforce,'' (4) ''Assessing the Defense Industrial Base,'' and (5) ''A Review of Spectrum Management.'' The mission of the DBB is to advise the Secretary of Defense on effective strategies for implementation of best business practices of interest to the Department of Defense.

Availability of Materials for the Meeting

The draft agenda for the meeting may be obtained from the Board's Web site at: *http://www.defenselink.mil/dbb* under ''Meetings—January 21, 2010.''

Public's Accessibility to the Meeting

Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis. All members of the public who wish to attend the meeting must contact Ms. Duffy (see **FOR FURTHER INFORMATION CONTACT**) no later than noon on Thursday, January 14, 2010, to register and make arrangements for a Pentagon escort, if necessary. Public attendees requiring escort should arrive at the Pentagon Metro Entrance in time to complete security screening by 8:45 a.m. To complete security screening, please come prepared to present two forms of identification: (1) A government-issued photo I.D., and (2) any type of secondary I.D. which verifies the individual's name (*i.e.* debit card, credit card, work badge, social security card).

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact Ms. Duffy at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Procedures for Providing Public Comments

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Board about its mission and topics pertaining to this public session.

Written comments are accepted until the date of the meeting, however, written comments should be received by the DFO at least five (5) business days prior to the meeting date so that the comments may be made available to the Board for their consideration prior to the meeting. Written comments should be submitted via email to the address for the DFO given in this notice in the following formats (Adobe Acrobat, WordPerfect, or Word format). Please note: Since the Board operates under the provisions of the Federal Advisory Committee Act, as amended, all public presentations will be treated as public documents and will be made available for public inspection, up to and including being posted on the Board's Web site.

Dated: December 9, 2009.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–29668 Filed 12–11–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

U.S. Marine Corps

[Docket ID USN–2009–0021]

Privacy Act of 1974; System of Records

AGENCY: U.S. Marine Corps, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The U.S. Marine Corps is proposing to alter an existing inventory of system of records notice subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on January 13, 2010 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal Rulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

ADDRESSES: Send comments to Headquarters, U.S. Marine Corps, FOIA/PA Section (ARSF), 2 Navy Annex, Room 3134, Washington, DC 20380–1775.

FOR FURTHER INFORMATION CONTACT: Ms. Tracy Ross at (703) 614–4008.

SUPPLEMENTARY INFORMATION: The U.S. Marine Corps system of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a (r), of the Privacy Act of 1974, as amended, was

submitted on December 3, 2009 to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 9, 2009.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

M05100–6

SYSTEM NAME:

Camp Lejeune Historic Drinking Water Notification Registry (July 16, 2007, 72 FR 38826).

CHANGES:

SYSTEM NAME:

Delete entry and replace with ''MCB Camp Lejeune Historic Drinking Water Notification Registry.''

SYSTEM LOCATION:

Delete entry and replace with ''Headquarters, U.S. Marine Corps, Installation and Logistics Division, Land Use and Military Construction Branch (LFL), 2 Navy Annex, Room 3109, Washington, DC 20380–1775.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''U.S. Service Members including Active Duty, Reserve, retired, and separated, military dependents, Federal government employees, and civilian personnel who were stationed, lived, or were employed aboard Marine Corps Base Camp Lejeune, NC between 1957 and 1987.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Full name, Social Security Number (SSN), current address, phone number, e-mail address, length of stay, address and duty status while living or working on Camp Lejeune.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 5041, Headquarters, U.S. Marine Corps; and E.O. 9397 (SSN), as amended.''

PURPOSE(S):

Delete entry and replace with ''The purpose of this system is to obtain and maintain contact information of people who may have been exposed to the drinking water at Camp Lejeune between 1957 and 1987. The information will be used to provide notifications to such persons regarding possible contamination of the drinking water on Camp Lejeune during this time period.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records or information may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Pursuant to 5 U.S.C. 522a(b)(8) to federal and state public health and environmental agencies in the performance of their official duties related to the protection and study of human health and the environment as affected by potential exposure to toxic contamination.

To the Department of Veterans Affairs (DVA) for the purpose of providing medical care to former service members and retirees, to determine the eligibility for or entitlement to benefits, to coordinate cost sharing activities, and to facilitate collaborative research activities between the DoD and DVA.

To officials and employees of the Agency for Toxic Substances and Diseases Registry (ATSDR) to facilitate ATSDR research activities.

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.''

* * * * *

RETRIEVABILITY:

Delete entry and replace with ''Records will routinely be retrieved by name.''

SAFEGUARDS:

Delete entry and replace with ''The Registry's servers are located in a secure area at Headquarters U.S. Marine Corps. Access to the database containing registry records is controlled and restricted by Headquarters U.S. Marine Corps personnel with authorized access only.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''Indefinite, pending NARA approval.

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Headquarters, U.S. Marine Corps, Installation and Logistics Division, Land Use and Military Construction Branch (LFL), 2 Navy Annex, Room 3109, Washington, DC 20380–1775.''

* * * * *

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to additional information about themselves contained in this system should address written inquiries to the Headquarters, U.S. Marine Corps, Installation and Logistics Division, Land Use and Military Construction Branch (LFL), 2 Navy Annex, Room 3109, Washington, DC 20380–1775.

Written requests should contain full name. The system manager will require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records.''

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''Individuals, Defense Manpower Data Center (DMDC) database, and Agency for Toxic Substances and Diseases Registry (ATSDR) files.''

* * * * *

M05100–6

SYSTEM NAME:

MCB Camp Lejeune Historic Drinking Water Notification Registry.

SYSTEM LOCATION:

Headquarters, U.S. Marine Corps, Installation and Logistics Division, Land Use and Military Construction Branch (LFL), 2 Navy Annex, Room 3109, Washington, DC 20380–1775.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. Service Members including Active Duty, Reserve, retired, and separated, military dependents, Federal government employees, and civilian personnel who were stationed, lived, or were employed aboard Marine Corps Base Camp Lejeune, NC between 1957 and 1987.

CATEGORIES OF RECORDS IN THE SYSTEM:

Full name, Social Security Number (SSN), current address, phone number, e-mail address, length of stay, address and duty status while living or working on Camp Lejeune.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5041, Headquarters, U.S. Marine Corps; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

The purpose of this system is to obtain and maintain contact information of people who may have been exposed to the drinking water at Camp Lejeune between 1957 and 1987. The information will be used to provide

notifications to such persons regarding possible contamination of the drinking water on Camp Lejeune during this time period.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records or information may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Pursuant to 5 U.S.C. 522a(b)(8) to federal and state public health and environmental agencies in the performance of their official duties related to the protection and study of human health and the environment as affected by potential exposure to toxic contamination.

To the Department of Veterans Affairs (DVA) for the purpose of providing medical care to former service members and retirees, to determine the eligibility for or entitlement to benefits, to coordinate cost sharing activities, and to facilitate collaborative research activities between the DoD and DVA.

To officials and employees of the Agency for Toxic Substances and Diseases Registry (ATSDR) to facilitate ATSDR research activities.

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Records will routinely be retrieved by name.

SAFEGUARDS:

The Registry's servers are located in a secure area at Headquarters U.S. Marine Corps. Access to the database containing registry records is controlled and restricted by Headquarters U.S. Marine Corps personnel with authorized access only.

RETENTION AND DISPOSAL:

Indefinite, pending NARA approval.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters U.S. Marine Corps, Installation and Logistics Division, Land Use and Military Construction Branch (LFL), 2 Navy Annex, Room 3109, Washington, DC 20380–1775.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Headquarters, U.S. Marine Corps, Installation and Logistics Division, Land Use and Military Construction Branch (LFL), 2 Navy Annex, Room 3109, Washington, DC 20380–1775.

Written requests should contain full name. The system manager will require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records.

RECORD ACCESS PROCEDURES:

Individuals seeking access to additional information about themselves contained in this system should address written inquiries to the Headquarters, U.S. Marine Corps, Installation and Logistics Division, Land Use and Military Construction Branch (LFL), 2 Navy Annex, Room 3109, Washington, DC 20380–1775.

Written requests should contain full name. The system manager will require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals, Defense Manpower Data Center (DMDC) database, and Agency for Toxic Substances and Diseases Registry (ATSDR) files.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9–29646 Filed 12–11–09; 8:45 am]
BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense (DoD).

ACTION: Renewal of Federal advisory committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.50, the Department of Defense gives notice that it is modifying the charter for the Defense Task Force on Sexual Assault in the Military Services (hereafter referred to as the Task Force).

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Committee Management Officer for the Department of Defense, 703–601–6128.

SUPPLEMENTARY INFORMATION: The Task Force, pursuant to section 576 of Public Law 108–375, is a non-discretionary federal advisory committee established to conduct an examination of matters relating to sexual assault by members or against members of the Armed Forces of the United States.

Pursuant to section 576(e) of public Law 108–375, the Task Force, no later than December 1, 2009, shall submit to the Secretary of Defense and the Secretaries of the Army, Navy and Air Force, its report on the activities of the Department of Defense and the Armed Forces to respond to sexual assault.

The Task Force shall be comprised of no more than ten members and the membership shall be comprised of an equal number of DoD and civilian members.

The Secretary of Defense shall select the DoD Co-Chairperson, and the civilian members shall select a civilian Co-Chairperson.

Task Force members who are appointed by the Secretary of Defense, who are not full-time or permanent part-time federal employees, shall be appointed as experts and consultants under the authority of 5 U.S.C. 3109 and serve as Special Government Employees. All members shall be appointed on an annual basis for the duration of the Task Force.

Task Force members who are federal officers or employees shall serve without compensation (other than compensation to which they are entitled to as Federal officers or employees).

Other Task Force members shall be appointed under the authority of 5 U.S.C 3161 and will receive compensation for their service. All Task Force members shall receive compensation for travel and per diem for official Task Force travel.

With DoD approval, the Task Force is authorized to establish subcommittees, as necessary and consistent with its mission. These subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976 (5 U.S.C 552B, as amended), and other appropriate Federal regulations.

Such subcommittees or workgroups shall not work independently of the chartered Task Force, and shall report all their recommendations and advice to the Task Force for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered Task Force nor can they report directly to the Department of Defense or any Federal officers or employees who are not Task Force members.

Subcommittee members, who are not Task Force members, shall be appointed in the same manner as the Task Force members.

The Task Force shall meet at the call of the Task Force's Designated Federal Officer, in consultation with the Chairperson. The estimated number of Task Force meetings is six per year.

The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. In addition, the Designated Federal Officer is required to be in attendance at all meetings, however, in the absence of the Designated Federal Officer, the Alternate Designated Federal Officer shall attend the meeting.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Defense Task Force on Sexual Assault in the Military Services membership about the Task Forces' mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Defense Task Force on Sexual Assault in the Military Services.

All written statements shall be submitted to the Designated Federal Officer for the Defense Task Force on Sexual Assault in the Military Services, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for Defense Task Force on Sexual Assault in the Military Services' Designated Federal Officer can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.*

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Defense Task Force on Sexual Assault in the Military Services. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: December 9, 2009.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–29645 Filed 12–11–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. IC10–580–000, IN79–6)

Commission Information Collection Activities, Proposed Collection (FERC–580); Comment Request

December 4, 2009.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A) (2006), the Federal Energy Regulatory Commission (FERC or Commission) is soliciting public comment on the proposed information collection described below.

DATES: Comments on the proposed collection of information are due 60 days after publication in the **Federal Register**.

ADDRESSES: Comments may be filed either electronically (eFiled) or in paper format, and should refer to Docket No. IC10–580–000. Documents must be prepared in an acceptable filing format and in compliance with Commission submission guidelines at *http://www.ferc.gov/help/submission-guide.asp.*

Comments may be eFiled. The eFiling option under the Documents & Filings tab on the Commission's home Web page directs users to the eFiling Web page. First time users will have to follow the eRegister instructions on the eFiling Web page: *http://www.ferc.gov/docs-filing/eregistration.asp,* to establish a user name and password before eFiling. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments through eFiling.

Commenters filing electronically should not make a paper filing. Commenters that are not able to file electronically must send an original and two (2) paper copies of the comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

Users interested in receiving automatic notification of activity in this docket may do so through eSubscription at *http://www.ferc.gov/docs-filing/esubscription.asp*). In addition, all comments and FERC issuances may be viewed, printed and downloaded remotely through the Commission's website using the ''eLibrary'' link and searching on Docket Number IC10–580. For user assistance, contact FERC Online Support, e-mail at *ferconlinesupport@ferc.gov,* or call toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659).

FOR FURTHER INFORMATION: Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov.*

SUPPLEMENTARY INFORMATION: The Public Utility Regulatory Policies Act (PURPA), enacted November 8, 1978, amended the Federal Power Act (the Act) and directed the Commission to make comprehensive biennial reviews of certain matters related to automatic adjustment clauses in wholesale rate schedules used by public utilities subject to the Commission's jurisdiction. Specifically, the Commission is required to examine whether the clauses effectively provide the incentives for efficient use of resources and also whether the clauses reflect only those costs that are either ''subject to periodic fluctuations'' or ''not susceptible to precise determinations'' in rate cases prior to the time the costs are incurred. The Commission is also required to review the practices of each public utility under automatic adjustment clauses ''to insure efficient use of resources under such clauses.'' [1] In response to the PURPA directive, the Commission (in Docket No. IN79–6) established an investigation and began in 1982, to collect every other year, the FERC–580 ''Interrogatory on Fuel and Energy Purchase Practices.'' (OMB No. 1902–0137).

In conjunction with the Paperwork Reduction Act information collection three-year renewal cycle (as administered by the Office of Management and Budget (OMB)), the Commission proposes to modify the questions in the interrogatory. There are several proposed changes to this reporting cycle and we seek comment on those changes. First, as it has been several years since the Commission collected information on automatic adjustment clauses other than fuel-adjustment clauses, therefore we propose in this cycle, to include

[1] The review requirement is set forth in two paragraphs of Section 208 of PURPA, 49 Stat.851; 16 U.S.C. 824d

questions necessary to collect basic information identifying automatic adjustment clauses of all types, through which costs have been flowed, during the current reporting period. Second, the Commission proposes to expand previous interrogatory questions regarding fuel procurement practices and adjustment clause treatment of purchased power to elicit more complete information and eliminate the need for follow-up questions.

To accomplish these changes, the Commission proposes to redesign the FERC–580 in order to eliminate the need for confidential treatment requests. The Commission proposes to remove all of the transportation contract questions, the request for copies of fuel-related audits, as well as the request for information regarding supplier identification, fuel shipped for others, and liability. This information is not currently needed for a Commission investigation.

In addition, the Commission has redesigned the FERC–580 so that the information may be collected electronically through a FERC-designed, easy-to-complete, fillable form that will include such user-friendly features such as pre-populated fields and dropdown menus. The program will automatically generate additional rows when needed, and will connect identification information (*e.g.* contract numbers and docket numbers) with their proper corresponding detail information to eliminate multiple entries of duplicative information. In subsequent cycles, respondents will be able to retrieve information for filings previously entered, thereby reducing the filing burden. These modifications should facilitate greater ease to the respondent in both submission and access to the information.

A copy of the interrogatory, desk reference, and glossary are attached and part of this document, but they are not included in the **Federal Register**. They are available from the FERC's eLibrary (*http://www.ferc.gov/docs-filing/elibrary.asp*) by searching Docket No. IC09–580–000, and through the FERC's Public Reference Room 202–502–8731. Interested parties may also request paper copies of the interrogatory, instructions, and glossary by contacting Michael Miller, by telephone at (202) 502–8415, by fax at (202) 273–0873, or by e-mail at *michael.miller@ferc.gov*.

In summary, the Commission seeks public comment on, and subsequent OMB approval of the proposed revised information collection (FERC–580, ''Interrogatory on Fuel and Energy Purchase Practices'') and the related estimated burden.

Action: The Commission is requesting a three-year extension of the current expiration date for the proposed revised reporting requirements.

Burden Statement: Public reporting burden for this collection is estimated at:

	Number of respondents (1)	Annual number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1) x (2) x (3)
Respondents with FACs	45	0.5	[2]103	2310
Respondents with AACs but no FACs	125	0.5	20	1250
Respondents with no AACs (no FACs)	40	0.5	2	40
Total				3600

The total burden has not changed from previous years. The burden associated with interrogatory responses will vary by utility depending on whether the utility has or does not have an automatic adjustment clause and depending on whether or not those utilities with adjustment clauses allow automatic adjustment of fuel cost. On average, the Commission estimates a cost burden to respondents of $238,628.08. (3,600 hours/2,080 hours [3] per year, times $137,874 [4] equals $238,628.08). The cost per respondent is $ $3.393.82 (FAC); $668.16 (AAC) and $59.66 (none).

The reporting burden includes the total time, effort, and financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise providing the information.

The respondent's cost estimate is based on salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) terms and definitions in the interrogatory and glossary; (3) the accuracy of the agency's burden estimate of the proposed collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information to be collected; and (5) ways to minimize respondent information collection burden.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

Note: The Attachments (interrogatory, instructions, and glossary) will not be included in the **Federal Register**. The Attachments are available on the FERC's eLibrary (*http://www.ferc.gov/docs-filing/elibrary.asp*) by searching Docket No. IC10–580–000, and through the FERC Public Reference Room.

[FR Doc. E9–29666 Filed 12–11–09; 8:45 am]

BILLING CODE 6717–01–P

[2] Rounded off

[3] Number of hours an employee works each year.

[4] Average annual salary per employee.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13523–000]

Lock+ Hydro Friends Fund XXI, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

December 7, 2009.

On July 19, 2009, Lock+ Hydro Friends Fund XXI, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Project Black Cat Bone, which would be located at the U.S. Army Corps of Engineers' Amory Lock and Dam on the Tennessee-Tombigbee Waterway near the town of Amory, Monroe County, MS. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following:

(1) Two lock frame modules consisting of eighteen 2,000 kilowatt turbines placed in a concrete-lined conduit of unknown dimensions. The modules would be located adjacent to and northwest of the Corps dam; (2) a proposed 69 kV transmission line approximately 2.3 miles long extending from the turbine units, adjacent to the waterway, to an existing distribution line located southwest of the dam. The 36 megawatt project would have an estimated annual generation of 284 gigawatt-hours.

Applicant Contact: Wayne F. Krouse; Hydro Green Energy, LLC; 5090 Richmond Avenue #390; Houston, TX 77056; *phone:* (877) 556–6566 x709.

FERC Contact: Monte TerHaar at *monte.terhaar@ferc.gov* or phone 202–502–6035.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the ''eFiling'' link. For a simpler method of submitting text only comments, click on ''Quick Comment.'' For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*; call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and eight copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13523) in the docket number field to access the document. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–29624 Filed 12–11–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13558–000]

Lock+ Hydro Friends Fund XXVIV, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

December 7, 2009.

On July 17, 2009, Lock+ Hydro Friends Fund XXVIV, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Project Green Voodoo, which would be located at the U.S. Army Corps of Engineer's Red River Lock and Dam No. 1 on the Red River near the town of Marksville, Catahoula Parish, LA. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following:

(1) One lock frame module consisting of nine turbines placed in a concrete-lined conduit of unknown dimensions. The module would be located adjacent to and east of the Corps dam; and (2) a proposed 69 kV transmission line approximately 13 miles long extending from the turbine units to a transfer station near the town of Marksville. The project would have an estimated annual generation of 37,277 megawatt-hours.

Applicant Contact: Wayne F. Krouse; Hydro Green Energy, LLC; 5090 Richmond Avenue #390; Houston, TX 77056; *phone:* (877) 556–6566 x709.

FERC Contact: Monte TerHaar at *monte.terhaar@ferc.gov* or phone 202–502–6035.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the ''eFiling'' link. For a simpler method of submitting text only comments, click on ''Quick Comment.'' For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and eight copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13558) in the docket number field to access the document. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–29625 Filed 12–11–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13515–000]

Lock+ Hydro Friends Fund XIV, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

December 7, 2009.

On June 16, 2009, Lock+ Hydro Friends Fund XIV, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Project Emerald, which would be located at the U.S. Army Corps of Engineer's W.D. Mayo Lock and Dam No. 14 located on the Arkansas River near the town of Spiro, Sequoyah County, OK and in Le Flore County, OK. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following:

(1) Two lock frame modules consisting of eighteen turbines rated at 36,000 kilowatts. The modules would be placed in a concrete-lined conduit of unknown dimensions. The modules would be located adjacent to and northeast of the Corps dam; and (2) a proposed 69 kV transmission line approximately 1.4 miles long extending from the turbine units to an existing distribution line located 1.4 miles south of the dam. The proposed transmission line would cross the Arkansas River. The project would have an estimated annual generation of 284 gigawatt-hours.

Applicant Contact: Wayne F. Krouse; Hydro Green Energy, LLC; 5090 Richmond Avenue #390; Houston, TX 77056; phone: (877) 556–6566 x709.

FERC Contact: Monte TerHaar at *monte.terhaar@ferc.gov* or phone 202–502–6035.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the ''eFiling'' link. For a simpler method of submitting text only comments, click on ''Quick Comment.'' For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*; call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and eight copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at h*ttp://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13515) in the docket number field to access the document. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–29623 Filed 12–11–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13598–000]

Northbrook Carters Lake, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

December 7, 2009.

On October 1, 2009, Northbrook Carters Lake, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Carters Lake Hydro Project, which would be located at the U.S. Army Corps of Engineer's Carters Reregulation Dam on the Coosawattee River near the town of Calhoun, Murray County, Georgia. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following:

(1) The existing 208-foot-wide Carters Reregulation Dam; (2) an existing 870-acre reservoir having a storage capacity of 17,210 acre-feet and water surface elevations between 677 feet and 696 feet mean sea level; (3) an intake and conduits delivering water to the project turbines; (4) a concrete powerhouse located 90 feet downstream of the dam; (5) two new Kaplan generating units having an installed capacity of 4.5-megawatts; (6) a newly excavated 700-foot-long tailrace; (7) a proposed transmission line 0.5 mile long; and (8) appurtenant facilities. The project would have an average annual generation of 17.325 gigawatt-hours.

Applicant Contact: Mr. Chris Sinclair; Northbrook Energy, LLC; 14550 N Frank Lloyd Wright Blvd., Ste 210; Scottsdale, AZ 85260; *phone:* (480) 551–1221.

FERC Contact: Monte TerHaar at *monte.terhaar@ferc.gov* or phone 202–502–6035.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the ''eFiling'' link. For a simpler method of submitting text only comments, click on ''Quick Comment.'' For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*; call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and eight copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13598) in the docket number field to access the document. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–29622 Filed 12–11–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

December 2, 2009.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP10–197–000.
Applicants: Statoil Natural Gas LLC, Gazprom Marketing & Trading USA, Inc.
Description: Petition for Waiver of Statoil Natural Gas LLC and Gazprom Marketing & Trading USA, Inc.
Filed Date: 12/01/2009.
Accession Number: 20091201–5099.
Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–198–000.
Applicants: Columbia Gas Transmission, LLC.
Description: Columbia Gas Transmission LLC submits Second Revised Sheet No. 137 to FERC Gas Tariff, Third Revised Volume No. 1.
Filed Date: 12/01/2009.
Accession Number: 20091201–0067.
Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–199–000.
Applicants: MarkWest Pioneer, L.L.C.
Description: MarkWest Pioneer, LLC submits Second Revised Sheet No. 5 to FERC Gas Tariff, Original Volume No. 1.
Filed Date: 12/01/2009.
Accession Number: 20091201–0066.
Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–200–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Natural Gas Pipeline Company of America submits Third Revised Sheet No. 34C *et al* to FERC Gas Tariff, Seventh Revised Volume No. 1.
Filed Date: 12/01/2009.
Accession Number: 20091201–0065.
Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–201–000.
Applicants: Rockies Express Pipeline LLC.
Description: Rockies Express Pipeline LLC request that FERC grant limited waivers of the filing requirements of Part 154.
Filed Date: 12/01/2009.
Accession Number: 20091201–0064.
Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–202–000.
Applicants: Texas Gas Transmission, LLC.
Description: Texas Gas Transmission LLC submits Fourth Revised Sheet No. 37 to FERC Gas Tariff, Third Revised Volume No. 1.
Filed Date: 12/01/2009.
Accession Number: 20091201–0063.
Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–203–000.
Applicants: Questar Overthrust Pipeline Company.
Description: Questar Overthrust Pipeline Co submits First Revised Sheet No. 51 *et al* to FERC Gas Tariff, First Revised Volume No. 1.
Filed Date: 12/01/2009.
Accession Number: 20091201–0062.
Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–204–000.
Applicants: Viking Gas Transmission Company.
Description: Viking Gas Transmission Company submits Ninth Revised Sheet No. 51 *et al* to FERC Gas Tariff, First Revised Volume No. 1.
Filed Date: 12/01/2009.
Accession Number: 20091201–0061.
Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–205–000.
Applicants: OkTex Pipeline Company, L.L.C.
Description: OkTex Pipeline Company, L.L.C submits for filing Sixth Revised Sheet 1 *et al* to its FERC Gas Tariff, Original Revised Volume 1, to be effective 2/1/10.
Filed Date: 12/01/2009.
Accession Number: 20091202–0045.
Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–206–000.
Applicants: CenterPoint Energy Gas Transmission Co.
Description: CenterPoint Energy Gas Transmission Company submits Eighth Revised Sheet No 1 *et al* to FERC Gas Tariff, Sixth Revised Volume No 1, to be effective 1/1/10.
Filed Date: 12/01/2009.
Accession Number: 20091202–0046.
Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–207–000.
Applicants: Guardian Pipeline, LLC.
Description: Guardian Pipeline, LLC tenders for filing Thirteenth Sheet 6 *et al.* to its FERC Gas Tariff, Original Volume 1, to be effective 1/1/10.
Filed Date: 12/01/2009.
Accession Number: 20091202–0044.
Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–208–000.
Applicants: Midwestern Gas Transmission Company.
Description: Midwestern Gas Transmission Company submits First Revised Sheet 219A *et al* to its FERC Gas Tariff, Third Revised Volume 1, to be effective 2/1/10.
Filed Date: 12/01/2009.
Accession Number: 20091202–0043.
Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–209–000.
Applicants: Northern Natural Gas Company.
Description: Northern Natural Gas Company submits for filing Fourth Revised Sheet 66B.35 to its FERC Gas Tariff, Fifth Revised Volume 1, to be effective 12/2/09.
Filed Date: 12/01/2009.
Accession Number: 20091202–0042.
Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–210–000.
Applicants: Kern River Gas Transmission Company.
Description: Kern River Gas Transmission Company submits First Revised Second Revised Twentieth Revised Sheet 5 to its FERC Gas Tariff, Second Revised Volume 1, to be effective 1/1/10.
Filed Date: 12/01/2009.
Accession Number: 20091202–0041.
Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–211–000.
Applicants: ANR Pipeline Company.
Description: ANR Pipeline Company submits Rate Schedule FSS negotiated rate agreement with Intergrys Energy Services, Inc *etc* to be effective 12/1/09.
Filed Date: 12/01/2009.
Accession Number: 20091202–0040.
Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–212–000.
Applicants: Guardian Pipeline, LLC.
Description: Guardian Pipeline, LLC submits First Revised Sheet 114A et al of its FERC Gas Tariff, Original Volume 1 to be effective 2/1/10.
Filed Date: 12/01/2009.
Accession Number: 20091202–0039.
Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–213–000.
Applicants: WTG Hugoton, LP.
Description: WTG Hugoton, LP submits Third Revised Sheet 5 to FERC Gas Tariff to FERC Gas Tariff, Original Volume 1 to reflect its Fuel Retention Percentages applicable to transportation service provided etc, effective 1/1/10.
Filed Date: 12/01/2009.
Accession Number: 20091202–0038.
Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211

and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–29665 Filed 12–11–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

December 4, 2009.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP10–214–000.

Applicants: Alliance Pipeline L.P.

Description: Alliance Pipeline, LP submits Sixteenth Revised Sheet 11 *et al* to FERC Gas Tariff, Original Volume 1 to be effective 1/1/10.

Filed Date: 11/30/2009.

Accession Number: 20091203–0056.

Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–215–000.

Applicants: Mojave Pipeline Company.

Description: Mojave Pipeline Co submits Thirtieth Revised Sheet No. 11 to FERC Gas Tariff, Second Revised Volume No. 1, to be effective 1/1/10.

Filed Date: 11/30/2009.

Accession Number: 20091202–0106.

Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–216–000.

Applicants: El Paso Natural Gas Company.

Description: El Paso Natural Co submits Nineteenth Revised Sheet No. 29 to FERC Gas Tariff, Second Revised Volume No. 1A, to be effective 1/1/10.

Filed Date: 11/30/2009.

Accession Number: 20091202–0108.

Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–217–000.

Applicants: Texas Gas Transmission, LLC.

Description: Texas Gas Transmission, LLC submits Fourth Revised Sheet No. 35 to FERC Gas Tariff, Third Revised Volume No. 1, to be effective 1/1/10.

Filed Date: 12/02/2009.

Accession Number: 20091202–0109.

Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–218–000.

Applicants: Northern Natural Gas Company.

Description: Northern Natural Gas Company submits Fifth Revised Sheet No. 66B.35 to FERC Gas Tariff, Fifth Revised Volume No. 1, to be effective 12/3/09.

Filed Date: 12/02/2009.

Accession Number: 20091202–0111.

Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–219–000.

Applicants: Wyoming Interstate Company, Ltd.

Description: Operational Purchases and Sales Annual Report ending June 30, 2009 of Wyoming Interstate Company, Ltd.

Filed Date: 12/02/2009.

Accession Number: 20091202–5075.

Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Docket Numbers: RP10–220–000.

Applicants: Transcontinental Gas Pipe Line Company,

Description: Transcontinental Gas Pipe Line Company submits First Revised Sheet 1 *et al* to FERC Gas Tariff, Fourth Revised Volume 1 *et al* to be effective 1/4/10.

Filed Date: 12/02/2009.

Accession Number: 20091203–0057.

Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an

eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–29664 Filed 12–11–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

December 4, 2009.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC10–28–000.

Applicants: La Paloma Generating Company, LLC.

Description: Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of La Poloma Generating Company, LLC.

Filed Date: 12/03/2009.

Accession Number: 20091203–5086.

Comment Date: 5 p.m. Eastern Time on Thursday, December 24, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER01–462–002.

Applicants: DPL Energy Resources, Inc.

Description: DPL Energy Resources, Inc submits Substitute First Revised Sheet 1 to its FERC Electric Rate Schedule 1, to be effective 12/27/09.

Filed Date: 11/30/2009.

Accession Number: 20091203–0010.

Comment Date: 5 p.m. Eastern Time on Monday, December 21, 2009.

Docket Numbers: ER09–412–009.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. status of stakeholder.

Filed Date: 12/01/2009.

Accession Number: 20091201–5165.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 22, 2009.

Docket Numbers: ER09–1192–001.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc submits revisions to its Bylaws to comply with FERC's 9/17/09 Orders.

Filed Date: 12/01/2009.

Accession Number: 20091202–0151.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 22, 2009.

Docket Numbers: ER09–1269–002; ER09–1270–002.

Applicants: Escondido Energy Center, LLC, Chula Vista Energy Center, LLC.

Description: Supplemental Information Requested Informally by Commission Staff of Escondido Energy Center, LLC, *et al.*

Filed Date: 11/30/2009.

Accession Number: 20091130–5149.

Comment Date: 5 p.m. Eastern Time on Monday, December 21, 2009.

Docket Numbers: ER10–90–001.

Applicants: Lonestar Energy Partners, LLC.

Description: Lonestar Energy Partners, LLC submits the Amended Petition for Acceptance of Initial Rate Schedule, Waivers and Blanket Authority.

Filed Date: 12/02/2009.

Accession Number: 20091202–0173.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 23, 2009.

Docket Numbers: ER10–92–002.

Applicants: EDF Trading North America, LLC.

Description: Notice of Non-Material Change in Status of EDF Trading North America, LLC.

Filed Date: 12/02/2009.

Accession Number: 20091202–5132.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 23, 2009.

Docket Numbers: ER10–228–001.

Applicants: Star Point Wind Project LLC.

Description: Star Point Wind Project, LLC submits Substitute Original Sheet 1 *et al.* to FERC Electric Tariff, Original Volume 1.

Filed Date: 12/01/2009.

Accession Number: 20091202–0161.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 22, 2009.

Docket Numbers: ER10–230–000.

Applicants: Kansas City Power & Light Company, KCP&L Greater Missouri Operations Company.

Description: Kansas City Power & Light Company *et al.* submits revised tariff sheets for the GMO open access transmission tariff revised tariff sheets for Schedule 1 *etc.*

Filed Date: 11/10/2009.

Accession Number: 20091112–0090.

Comment Date: 5 p.m. Eastern Time on Thursday, December 10, 2009.

Docket Numbers: ER10–238–001.

Applicants: Upper Peninsula Power Company.

Description: Upper Peninsula Power Company submits filing as a supplement to its 11/9/09 filing of revisions to Attachments D and E of Original Rate Schedule 54 *etc.*

Filed Date: 12/02/2009.

Accession Number: 20091202–0160.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 23, 2009.

Docket Numbers: ER10–249–001.

Applicants: Illinois Power Company & Ameren Illinois.

Description: Illinois Power Co and Ameren Illinois Transmission Co submit revised Exhibit A to the Joint Ownership Agreement.

Filed Date: 12/01/2009.

Accession Number: 20091202–0152.

Comment Date: 5 p.m. Eastern Time on Friday, December 11, 2009.

Docket Numbers: ER10–328–001.

Applicants: Niagara Mohawk Power Corporation.

Description: National Grid submits errata to amendment of Formula Transmission Rate Supported by Stipulation.

Filed Date: 12/01/2009.

Accession Number: 20091202–0085.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 22, 2009.

Docket Numbers: ER10–343–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits executed interconnection service agreement among PJM, Worcester County Renewable Energy, LLC, and Delmarva Power and Light Company.

Filed Date: 11/30/2009.

Accession Number: 20091202–0015.

Comment Date: 5 p.m. Eastern Time on Monday, December 21, 2009.

Docket Numbers: ER10–345–000.

Applicants: Calpine Construction Finance Company, LP.

Description: Calpine Construction Finance Company, LP submits notice of cancellation to Rate Schedule FERC No 3.

Filed Date: 11/30/2009.

Accession Number: 20091202–0100.

Comment Date: 5 p.m. Eastern Time on Monday, December 21, 2009.

Docket Numbers: ER10–346–000.

Applicants: Calvert Cliffs Nuclear Power Plant LLC.

Description: Constellation Energy Nuclear Group, LLC submits a Notice of Succession and name change.

Filed Date: 11/30/2009.

Accession Number: 20091202–0047.

Comment Date: 5 p.m. Eastern Time on Monday, December 21, 2009.

Docket Numbers: ER10–347–000.

Applicants: PacifiCorp.

Description: PacifiCorp submits revised tariff sheets to Appendices A, B, and C of PacifiCorp Rate Schedule FERC 590 *etc.*

Filed Date: 11/30/2009.

Accession Number: 20091202–0098.
Comment Date: 5 p.m. Eastern Time on Monday, December 21, 2009.

Docket Numbers: ER10–348–000.
Applicants: PacifiCorp.
Description: PacifiCorp submits for filing informational purposes a revised Exhibit C and revised Exhibit D to its Second Revised Rate Schedule 237.
Filed Date: 11/30/2009.
Accession Number: 20091202–0097.
Comment Date: 5 p.m. Eastern Time on Monday, December 21, 2009.

Docket Numbers: ER10–349–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc *et al.* submit notice of cancellation to First Revised Rate Schedule FERC No 171.
Filed Date: 11/30/2009.
Accession Number: 20091202–0096.
Comment Date: 5 p.m. Eastern Time on Monday, December 21, 2009.

Docket Numbers: ER10–350–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc submits Notice of Cancellation to First revised Rate Schedule 174 the Electric Power Supply Agreement, dated 2/1/88.
Filed Date: 11/30/2009.
Accession Number: 20091202–0095.
Comment Date: 5 p.m. Eastern Time on Monday, December 21, 2009.

Docket Numbers: ER10–351–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc *et al.* submit notice of cancellation to First Revised Rate Schedule FERC No 170.
Filed Date: 11/30/2009.
Accession Number: 20091202–0094.
Comment Date: 5 p.m. Eastern Time on Monday, December 21, 2009.

Docket Numbers: ER10–352–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc submits amendments to its Open Access Transmission Tariff to include a pro forma Interim Large Generator Interconnection Agreement.
Filed Date: 12/01/2009.
Accession Number: 20091202–0049.
Comment Date: 5 p.m. Eastern Time on Tuesday, December 22, 2009.

Docket Numbers: ER10–353–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc submits an executed service agreement for Network Integration Transmission Service.
Filed Date: 12/01/2009.
Accession Number: 20091202–0048.
Comment Date: 5 p.m. Eastern Time on Tuesday, December 22, 2009.

Docket Numbers: ER10–355–000.
Applicants: American Electric Power Service Corporation.
Description: AEP Transmission Company, LLC *et al.* submits request for acceptance of a formula rate to recover the costs of investments in transmission facilities.
Filed Date: 12/01/2009.
Accession Number: 20091202–0101.
Comment Date: 5 p.m. Eastern Time on Tuesday, December 22, 2009.

Docket Numbers: ER10–356–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc *et al.* submits notice of cancellation to First Revised Rate Schedule FERC No 175.
Filed Date: 11/30/2009.
Accession Number: 20091202–0091.
Comment Date: 5 p.m. Eastern Time on Monday, December 21, 2009.

Docket Numbers: ER10–357–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc submits Notice of Cancellation to First revised Rate Schedule 245 the Electric Power Supply Agreement, dated 11/2/87.
Filed Date: 11/30/2009.
Accession Number: 20091202–0090.
Comment Date: 5 p.m. Eastern Time on Monday, December 21, 2009.

Docket Numbers: ER10–358–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc submits notice of cancellation to First Revised Rate Schedule FERC No 169.
Filed Date: 11/30/2009.
Accession Number: 20091202–0089.
Comment Date: 5 p.m. Eastern Time on Monday, December 21, 2009.

Docket Numbers: ER10–359–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc submits Notice of Cancellation to First revised Rate Schedule 179 the Electric Power Supply Agreement, dated 12/8/87.
Filed Date: 11/30/2009.
Accession Number: 20091202–0088.
Comment Date: 5 p.m. Eastern Time on Monday, December 21, 2009.

Docket Numbers: ER10–360–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc submits Notice of Cancellation to First Revised Rate Schedule FERC 172 *etc.*
Filed Date: 11/30/2009.
Accession Number: 20091202–0084.
Comment Date: 5 p.m. Eastern Time on Monday, December 21, 2009.

Docket Numbers: ER10–361–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc submits Notice of Cancellation to First revised Rate Schedule 173 the Electric Power Supply Agreement, dated 9/14/87.
Filed Date: 11/30/2009.
Accession Number: 20091202–0086.
Comment Date: 5 p.m. Eastern Time on Monday, December 21, 2009.

Docket Numbers: ER10–362–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc submits notice of cancellation to First Revised Rate Schedule FERC No 233.
Filed Date: 11/30/2009.
Accession Number: 20091202–0087.
Comment Date: 5 p.m. Eastern Time on Monday, December 21, 2009.

Docket Numbers: ER10–364–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc submits an executed Designee Qualification and Novation Agreement.
Filed Date: 12/01/2009.
Accession Number: 20091202–0153.
Comment Date: 5 p.m. Eastern Time on Tuesday, December 22, 2009.

Docket Numbers: ER10–365–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc submits an executed Designee Qualification and Novation Agreement.
Filed Date: 12/01/2009.
Accession Number: 20091202–0154.
Comment Date: 5 p.m. Eastern Time on Tuesday, December 22, 2009.

Docket Numbers: ER10–366–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, LLC submits revisions to the PJM Open Access Transmission Tariff and Reliability Assurance Agreement.
Filed Date: 12/01/2009.
Accession Number: 20091202–0155.
Comment Date: 5 p.m. Eastern Time on Tuesday, December 22, 2009.

Docket Numbers: ER10–367–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc submits amendments to Section 9.7.1 of it Bylaws.
Filed Date: 12/01/2009.
Accession Number: 20091202–0156.
Comment Date: 5 p.m. Eastern Time on Tuesday, December 22, 2009.

Docket Numbers: ER10–368–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc submits an executed Meter Agent Services Agreement between Westar Energy, Inc Generation Services *etc.*
Filed Date: 12/01/2009.
Accession Number: 20091202–0157.
Comment Date: 5 p.m. Eastern Time on Tuesday, December 22, 2009.

Docket Numbers: ER10–369–000.
Applicants: Ameren Services Company.
Description: Ameren Services Co submits Facilities Service Agreement

between Ameren Services and Ameren Energy Generating Company.

Filed Date: 12/01/2009.

Accession Number: 20091202–0158.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 22, 2009.

Docket Numbers: ER10–370–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc submits notice cancellation of the Meter Agent Services Agreement between Kansas Electric Power Cooperative and the Empire District Electric Company.

Filed Date: 12/01/2009.

Accession Number: 20091202–0159.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 22, 2009.

Docket Numbers: ER10–371–000.

Applicants: Florida Power & Light Company.

Description: Florida Power and Light Company submits transmittal letter and new Service Agreement 272 and 273 for Long-Term Point-to-Point Transmission Service with Georgia Transmission Corp.

Filed Date: 12/02/2009.

Accession Number: 20091202–0162.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 23, 2009.

Docket Numbers: ER10–372–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits an executed interconnection service agreement entered into among PJM *et al.*

Filed Date: 12/02/2009.

Accession Number: 20091202–0163.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 23, 2009.

Docket Numbers: ER10–373–000.

Applicants: Florida Power & Light Company.

Description: Florida Power and Light Company submits five copies of transmittal letter and new Service Agreement 318, Interconnection Facilities Study Agreement etc.

Filed Date: 12/02/2009.

Accession Number: 20091203–0061.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 23, 2009.

Docket Numbers: ER10–375–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits Third Revised Sheet 618 *et al.* to FERC Electric Tariff Sixth Revised volume 1, to be effective 1/1/10.

Filed Date: 12/02/2009.

Accession Number: 20091203–0060.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 23, 2009.

Docket Numbers: ER10–376–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc submits revised pages to its Open Access Transmission Tariff to implement a rate change for the ITC Great Plains, LLC etc.

Filed Date: 12/02/2009.

Accession Number: 20091203–0059.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 23, 2009.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES09–58–001.

Applicants: Northeast Utilities Service Company.

Description: Amendment to Application of Northeast Utilities Service Company for authorization to issue short-term debt securities.

Filed Date: 12/03/2009.

Accession Number: 20091203–5055.

Comment Date: 5 p.m. Eastern Time on Monday, December 14, 2009.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA08–91–002.

Applicants: Black Hills Power, Inc.

Description: Black Hills Power, Inc submits revised pages to the Schedule 4 of FERC Electric Tariff Second Substitute First Revised Volume 4.

Filed Date: 12/02/2009.

Accession Number: 20091203–0058.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 23, 2009.

Take notice that the Commission received the following electric reliability filings

Docket Numbers: RD10–5–000.

Applicants: North American Electric Reliability Corp.

Description: Petition of the North American Electric Reliability Corporation for Approval of Interpretations to Reliability Standards MOD–001–1 and MOD–029–1.

Filed Date: 12/02/2009.

Accession Number: 20091202–5129.

Comment Date: 5 p.m. Eastern Time on Friday, January 08, 2010.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR09–4–001.

Applicants: Southwest Power Pool, Inc., North American Electric Reliability Corp.

Description: Compliance Filing of North American Electric Reliability Corporation and Southwest Power Pool, Inc. to September 17, 2009 Commission Order.

Filed Date: 12/01/2009.

Accession Number: 20091201–5173.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 22, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–29663 Filed 12–11–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

December 7, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER08–1237–002.
Applicants: Shiloh Wind Project 2, LLC.
Description: Response to Staff Request and Request for Confidential Treatment of Shiloh Wind Project 2, LLC.
Filed Date: 12/04/2009.
Accession Number: 20091204–5137.
Comment Date: 5 p.m. Eastern Time on Monday, December 28, 2009.

Docket Numbers: ER08–1288–005.
Applicants: Wapsipinicon Wind Project, LLC.
Description: Response to Staff Request and Request for Confidential Treatment of Wapsipinicon Wind Project, LLC.
Filed Date: 12/04/2009.
Accession Number: 20091204–5139.
Comment Date: 5 p.m. Eastern Time on Monday, December 28, 2009.

Docket Numbers: ER09–4–002.
Applicants: Krayn Wind LLC.
Description: Krayn Wind LLC Notice of Change in Status Krayn Wind.
Filed Date: 12/03/2009.
Accession Number: 20091203–5117.
Comment Date: 5 p.m. Eastern Time on Thursday, December 24, 2009.

Docket Numbers: ER10–195–001.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc submits executed Service Agreement for Network Integration Transmission Service between SPP and American Electric Power Service Corporation, *et al.*
Filed Date: 12/03/2009.
Accession Number: 20091207–0037.
Comment Date: 5 p.m. Eastern Time on Thursday, December 24, 2009.

Docket Numbers: ER10–225–001.
Applicants: Major Energy Electric Services, LLC.
Description: Petition for acceptance of initial tariff, waivers and blanket authority for Major Energy Electric Services, LLC.
Filed Date: 12/03/2009.
Accession Number: 20091207–0036.
Comment Date: 5 p.m. Eastern Time on Thursday, December 24, 2009.

Docket Numbers: ER10–317–001.
Applicants: Arizona Public Service Company.
Description: Arizona Public Service Company submits errata filing with an identical version of the agreement that is properly designated as Service Agreement 301.
Filed Date: 12/03/2009.
Accession Number: 20091207–0033.
Comment Date: 5 p.m. Eastern Time on Thursday, December 24, 2009.

Docket Numbers: ER10–346–001; ER04–485–014; ER01–1654–019; ER00–2917–017.
Applicants: Calvert Cliffs Nuclear Power Plant LLC; R.E. Ginna Nuclear Power Plant, LLC; Nine Mile Point Nuclear Station, LLC; Calvert Cliffs Nuclear Power Plant, Inc.
Description: Change in Status Filing of Constellation Energy Nuclear Group, LLC.
Filed Date: 12/04/2009.
Accession Number: 20091204–5145.
Comment Date: 5 p.m. Eastern Time on Monday, December 28, 2009.

Docket Numbers: ER10–374–000.
Applicants: Medicine Bow Power Partners, LLC.
Description: Application for market based rate authority, request for waivers and authorizations, and request for finding of qualifications as Category 1 Seller re Medicine Bow Power Partners, LLC.
Filed Date: 12/03/2009.
Accession Number: 20091207–0041.
Comment Date: 5 p.m. Eastern Time on Thursday, December 24, 2009.

Docket Numbers: ER10–377–000.
Applicants: Elm Creek Wind II LLC.
Description: Application of Elk Creek Wind II, LLC for order accepting Initial Tariff, Waiving Regulations, and Granting Blanket Approvals, including Blanket Approvals under 18 CFR part 34 for all future issuances of securities *etc.*
Filed Date: 12/03/2009.
Accession Number: 20091207–0040.
Comment Date: 5 p.m. Eastern Time on Thursday, December 24, 2009.

Docket Numbers: ER10–378–000.
Applicants: Buffalo Ridge II LLC.
Description: Application of Buffalo Ridge II, LLC for order accepting initial tariff, waiving regulations, and granting blanket approvals, including blanket approvals under 18 CFR part 34 for all future issuances of securities etc.
Filed Date: 12/03/2009.
Accession Number: 20091207–0042.
Comment Date: 5 p.m. Eastern Time on Thursday, December 24, 2009.

Docket Numbers: ER10–380–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc. submits notice of cancellation of a confirmation letter for Wholesale Electric Energy and Capacity between Westar and the City of Alma.
Filed Date: 12/03/2009.
Accession Number: 20091207–0031.
Comment Date: 5 p.m. Eastern Time on Thursday, December 24, 2009.

Docket Numbers: ER10–381–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc. submits Notice of Cancellation to Service Agreement 207 with the City of Wathena, Kansas.
Filed Date: 12/03/2009.
Accession Number: 20091207–0030.
Comment Date: 5 p.m. Eastern Time on Thursday, December 24, 2009.

Docket Numbers: ER10–382–000.
Applicants: Florida Power Corporation.
Description: Progress Energy Florida, Inc submits an executed operating agreement with Seminole Electric Cooperative, Inc.
Filed Date: 12/03/2009.
Accession Number: 20091207–0032.
Comment Date: 5 p.m. Eastern Time on Thursday, December 24, 2009.

Docket Numbers: ER10–383–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits Service Agreement No 83.
Filed Date: 12/03/2009.
Accession Number: 20091207–0035.
Comment Date: 5 p.m. Eastern Time on Thursday, December 24, 2009.

Docket Numbers: ER10–384–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Co submits the Generation Interconnection Process Reform Tariff Amendment for its Wholesale Distribution Access Tariff.
Filed Date: 12/03/2009.
Accession Number: 20091207–0034.
Comment Date: 5 p.m. Eastern Time on Thursday, December 24, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

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Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–29662 Filed 12–11–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI10–3–000]

Evans Solutions, LLC; Notice of Declaration of Intention and Soliciting Comments, Protests, and/or Motions To Intervene

December 4, 2009.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI10–3–000.

c. *Date Filed:* November 24, 2009.

d. *Applicant:* Evans Solutions, LLC.

e. *Name of Project:* Lake Busbee Hydroelectric Project.

f. *Location:* The proposed Lake Busbee Hydroelectric Project will be located on Lake Busbee, a man-made lake that uses water from the Waccamaw River, near the town of Conway, Horry County, South Carolina.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* John A. Hodge, Haynsworth, Sinker & Boyd, P.A. Law Firm, P. O. Box 11889, Columbia, SC 29211–1889; telephone: (803) 779–3080; e-mail: *http://www.jhodge@hsblawfirm.com.*

i. *FERC Contact:* Any questions on this notice should be addressed to Henry Ecton, (202) 502–8768, or E-mail address: *henry.ecton@ferc.gov.*

j. *Deadline for filing comments, protests, and/or motions:* January 4, 2010.

Comments, Motions to Intervene, and Protests may be filed electronically via the Internet. See 18 CFR 385.2001(a)(l)(iii) and the instructions on the Commission's Web site under the ''eFiling'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings, please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.*

Please include the docket number (DI10–3–000) on any comments, protests, and/or motions filed.

k. *Description of Project:* The proposed Lake Busbee Hydroelectric Project will include: (1) A 10-foot-long water intake, drawing 5,000 gallons of water hourly from Lake Busbee into an elevated water tower storing five hundred thousand gallons of water; (2) an elevated water tower serving as the powerhouse, containing four 10-megawatt turbines/generators; (3) a water pipe tailrace, discharging water into Lake Busbee; and (4) appurtenant facilities. The proposed project will be connected to an interstate grid.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the Docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOlineSupport@ferc.gov* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—All filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', AND/OR ''MOTIONS TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any Motion to Intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an

agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–29621 Filed 12–11–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI10–4–000]

Madison Farms; Notice of Declaration of Intention and Soliciting Comments, Protests, and/or Motions To Intervene

December 4, 2009.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI10–4–000.

c. *Date Filed:* December 1, 2009.

d. *Applicant:* Madison Farms.

e. *Name of Project:* Madison ASR Hydroelectric Project.

f. *Location:* The proposed Madison ASR Hydroelectric Project will be located near the town of Echo, Umatilla County, Oregon, affecting T. 3 N, R. 27 E, Williamette Meridian.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Kent Madison, 29299 Madison Road, Echo, OR 9826; *telephone:* (541) 376–8107; *Fax:* (541) 376–8618; *e-mail: http://www.Kmadison@eoni.com.*

i. *FERC Contact:* Any questions on this notice should be addressed to Henry Ecton, (202) 502–8768, or *E-mail address: henry.ecton@ferc.gov.*

j. *Deadline for filing comments, protests, and/or motions:* January 4, 2010.

Comments, Motions to Intervene, and Protests may be filed electronically via the Internet. *See* 18 CFR 385.2001(a)(l)(iii) and the instructions on the Commission's Web site under the ''eFiling'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings, please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.*

Please include the docket number (DI10–4–000) on any comments, protests, and/or motions filed.

k. *Description of Project:* The proposed Madison ASR Hydroelectric Project contains an existing system collecting ground water, approximately 20 feet below ground, which is piped into a 4-foot-diameter, 25-foot-deep shallow well. The water in the shallow well is pumped into the irrigation system, as needed. Excess water is pumped through an 8-inch-diameter pipe into a second deeper 750-foot-deep basalt well, containing a 100-horsepower line-shaft turbine pump. It is expected that approximately 37 kW will be created, to be sold on the interstate grid.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the Docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOlineSupport@ferc.gov* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—All filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', AND/OR ''MOTIONS TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any Motion to Intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–29618 Filed 12–11–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF09–15–000]

Dominion Transmission, Inc.; Notice of Intent To Prepare an Environmental Assessment for the Planned Appalachian Gateway Project and Request for Comments on Environmental Issues

December 4, 2009.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Appalachian Gateway Project involving construction and operation of facilities by Dominion Transmission, Inc. (DTI) in northeastern West Virginia (WV) and southwestern Pennsylvania (PA). The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process we [1] will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues need to be evaluated in the EA. Please note that the scoping period will close on February 3, 2010.

Comments may be submitted in written form or verbally. Further details on how to submit written comments are provided in the public participation section of this notice. Comments may be submitted verbally during public scoping meetings, which will be scheduled for late January 2010. Another notice will be distributed to announce the dates and locations of the public scoping meetings.

This notice is being sent to the Commission's current environmental mailing list for this project, which includes affected landowners; federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. State and local government representatives are asked to notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' is available for viewing on the FERC Web site (*http://www.ferc.gov/for-citizens/citizen-guides.asp*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Summary of the Planned Project

DTI plans to construct and operate approximately 110 miles of 20-, 24-, and 30-inch diameter natural gas pipeline and associated aboveground facilities in northeastern West Virginia and southwestern Pennsylvania. According to DTI, its project would provide about 484,260 dekatherms of natural gas per day of firm transportation services from increasing gas production in the Appalachian region of West Virginia and Pennsylvania to the east coast markets.

The Appalachian Gateway Project would consist of the following facilities:

- Approximately 43.1 miles of 30-inch diameter pipeline in Marshall County, WV and Greene County, PA;
- Approximately 54.2 miles of 24-inch diameter pipeline in Greene, Washington, Allegheny, and Westmoreland Counties, PA;
- Approximately 5.2 miles of 20-inch diameter pipeline loop in Kanawha County, WV and 6 miles of 24-inch diameter pipeline loop in Greene County, PA; [2]
- A total of approximately 1.5 miles of various diameter discharge and suction pipelines to serve the Lewis-Wetzel Compressor Station (Wetzel County, WV) and the Morrison Compressor Station (Harrison County, WV);
- Two new compressor stations on new sites: Burch Ridge Station (Marshall County, WV) with approximately 6,130 horsepower (HP) and Morrison Station (Harrison County, WV) with approximately 1,775 HP;
- Two new compressor stations on existing sites: Chelyan Station (Kanawha County, WV) with approximately 4,735 HP and Lewis Wetzel Station (Wetzel County, WV) with approximately 3,550 HP;
- A new metering and regulation facility at the existing Oakford Compressor Station in Westmoreland County, PA; and
- Upgrades and minor additions to other existing facilities in Wyoming, Doddridge, McDowell, and Barbour Counties, WV.

The general location of the project facilities is shown in Appendix 1.[3]

Land Requirements for Construction

Construction of the planned facilities would disturb about 1,612 acres of land for the aboveground facilities and the pipeline. Following construction, about 785 acres would be maintained for permanent operation of the project's facilities; the remaining acreage would be restored and allowed to revert to former uses. About 80 percent of the planned pipeline route parallels existing pipeline, utility, or road rights-of-way.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. All comments received will be considered during the preparation of the EA. To ensure your comments are considered, please carefully follow the instructions in the Public Participation section of this notice, beginning on page 5.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the planned project under these general headings:

- Geology and soils;
- Land use, recreation and visual resources;
- Water resources, fisheries, and wetlands;
- Cultural resources;
- Vegetation and wildlife;
- Air quality and noise;
- Endangered and threatened species;
- Hazardous waste;
- Public safety; and
- Cumulative impacts.

We will also evaluate possible alternatives to the planned project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Although no formal application has been filed, we have already initiated our NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC. As part of our pre-filing review, we have begun to contact some federal and state agencies to discuss their involvement in the scoping process and the preparation of the EA.

Our independent analysis of the issues will be presented in the EA. Depending on the comments received during the scoping process, the EA may

[1] ''We,'' ''us,'' and ''our'' refer to environmental staff of the Office of Energy Projects (OEP).

[2] A pipeline loop is constructed parallel to an existing pipeline to increase capacity.

[3] The appendices referenced in this notice are not being printed in the **Federal Register.** Copies of appendices were sent to all those receiving this notice in the mail and are available at *http://www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

be published and mailed to those on our environmental mailing list (see discussion of how to remain on our mailing list on page 6). A comment period will be allotted for review of the EA if it is published. We will consider all comments on the EA before we make our recommendations to the Commission.

With this notice, we are asking agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Currently Identified Environmental Issues

Based on a preliminary review of the planned facilities and the environmental information provided by DTI, we have identified potential visual and land use impacts that we think deserve attention. DTI anticipates that longwall coal mining may proceed beneath the pipeline at some point in the future. Mitigation measures that DTI would take to maintain the integrity of its pipeline may require unearthing the pipeline post-construction to conduct stress tests, which could in turn impact both land use and visual resources. Additional issues may be included in our analysis based on your comments.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your written comments are timely and properly recorded, please send in your comments so that they will be received in Washington, DC on or before February 3, 2010.

For your convenience, there are three methods which you can use to submit your written comments to the Commission. The Commission encourages electronic filing of comments and has expert eFiling staff available to assist you at 202–502–8258 or *efiling@ferc.gov*.

(1) You may file your comments electronically by using the Quick Comment feature, which is located at *http://www.ferc.gov* under the link called ''Documents and Filings''. A Quick Comment is an easy method for interested persons to submit text-only comments on a project;

(2) You may file your comments electronically by using the ''eFiling'' feature that is listed under the ''Documents and Filings'' link. eFiling involves preparing your submission in the same manner as you would if filing on paper, and then saving the file on your computer's hard drive. You will attach that file to your submission. New eFiling users must first create an account by clicking on the links called ''Sign up'' or ''eRegister''. You will be asked to select the type of filing you are making. A comment on a particular project is considered a ''Comment on a Filing''; or

(3) You may file your comments with the Commission via mail by sending an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

In all instances, please reference the project docket number PF09–15–000 with your submission. Label one copy of the comments for the attention of Gas Branch 3, PJ–11.3.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the planned project. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities (as defined in the Commission's regulations).

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Mail List Retention Form (Appendix 2). If you do not return the Mail List Retention Form, you will be taken off the mailing list.

Becoming an Intervenor

Once DTI files its application with the Commission, you may want to become an ''intervenor'', which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates the proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the ''e-filing'' link on the Commission's Web site. Please note that you may not request intervenor status at this time. You must wait until a formal application for the project is filed with the Commission.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits, in the Docket Number field (i.e., PF09–15). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–29617 Filed 12–11–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–3404–002]

McGrath, Eugene R.; Notice of Filing

December 4, 2009.

Take notice that on November 23, 2009, Eugene R. McGrath filed an application for authorization to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, 16 USCA 825(b) (2006), and part 45 of the regulations of the Federal Energy Regulatory Commission, 18 CFR part 45 (2009).

Any person desiring to intervene or to protest this filing must file in

accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on December 11, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–29620 Filed 12–11–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL10–21–000; QF93–159–008]

Glenns Ferry Cogeneration Partners, Ltd.; Notice of Filing

December 4, 2009.

Take notice that on December 1, 2009, Glenns Ferry Cogeneration Partners, Ltd. (Glenns Ferry) filed an application for recertification as a qualifying cogeneration facility, located in Glenns Ferry, Idaho, pursuant to section 292.205(a) of the Commission's regulations, 18 CFR 292.205(a). Glenns Ferry also requests a limited waiver of the Commission's qualifying cogeneration facility operating and efficiency standard requirements for its facility for year 2009.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on January 4, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–29619 Filed 12–11–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–25–000]

Eastern Shore Natural Gas Company; Prior Notice of Activity Under Blanket Certificate

December 7, 2009.

On November 25, 2009 Eastern Shore Natural Gas Company (Eastern Shore) filed a prior notice request pursuant to sections 157.205, 157.208 and 157.210 of the Federal Energy Regulatory Commission's (Commission) regulations under the Natural Gas Act, and Eastern Shore's blanket certificate issued in Docket No. CP96–128–000. Eastern Shore requests authorization to construct, own and operate new mainline facilities to deliver additional firm entitlements of 1,650 dekatherms per day of natural gas to Chesapeake Utilities Corporation-Delaware Division, all as more fully described in the application that is available for public for inspection.

Any questions regarding the application should be directed to Glen DiEleuterio, Project Manager, at (302) 734–6710, ext. 6723 or via fax (302) 734–6745 or by e-mail to *GDiEleuterio@esng.com.*

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such motions or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant, on or before the comment date. It is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for

review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–29626 Filed 12–11–09; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket# EPA–RO4–SFUND–2009–0633, FRL–9092–3]

Granville High School Mercury Superfund Site, Creedmoor, Granville County, NC Notice of Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of settlement.

SUMMARY: Under Section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency has entered into a settlement for reimbursement of past response costs concerning the Granville High School Mercury Superfund Site located in Creedmoor, Granville County, North Carolina for publication.

DATES: The Agency will consider public comments on the settlement until January 13, 2010. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

ADDRESSES: Copies of the settlement are available from Ms. Paula V. Painter. Submit your comments, identified by Docket ID No. EPA–RO4–SFUND–2009–0633 or Site name Granville High School Mercury Superfund Site by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *http://www.epa.gov/region4/waste/sf/enforce.htm*
- *E-mail: Painter.Paula@epa.gov*

FOR FURTHER INFORMATION CONTACT: Paula V. Painter at 404–562–8887.

Dated: August 12, 2009.

Anita L. Davis,

Chief, Superfund Enforcement and Information Management Branch, Superfund Division.

[FR Doc. E9–29689 Filed 12–11–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

December 8, 2009.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments by February 12, 2010. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at (202) 395–5167, or via the Internet at Nicholas_A._Fraser@omb.eop.gov and to Cathy Williams, Federal Communications Commission (FCC), 445 12th Street, SW, Washington, DC 20554. To submit your comments by e–mail send then to: PRA@fcc.gov and Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e–mail to PRA@fcc.gov or contact Cathy Williams on (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1033.

Title: Multi–Channel Video Program Distributor EEO Program Annual Report, FCC Form 396–C.

Form Number: FCC 396–C.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit entities; Not–for–profit institutions.

Number of Respondents and Responses: 2,200 respondents; 2,620 responses.

Estimated Hours per Response: 10 minutes – 2.5 hours

Frequency of Response: Recordkeeping requirement; Annual and once every five–year reporting requirements.

Total Annual Burden: 3,187 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

Nature of Response: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 154(i), 303 and 634 of the Communications Act of 1934, as amended.

Confidentiality: No need for confidentiality required with this information collection.

Needs and Uses: The FCC Form 396–C is a collection device used to assess compliance with the Equal Employment Opportunity (EEO) program requirements by Multi–channel Video programming Distributors (''MPVDs''). It is publicly filed to allow interested parties to monitor a ''MPVD's'' compliance with the Commission's EEO requirements. All ''MVPDs'' must file annually an EEO report in their public file detailing various facts concerning their outreach efforts during the preceding year and the results of those efforts. ''MVPDs'' will be required to file their EEO public file report for the preceding year as part of the in–depth ''MVPD'' investigation conducted once every five years.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. E9–29644 Filed 12–11–09 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Being Reviewed by the Federal Communications Commission, Comments Requested

December 3, 2009.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comments on this information collection should submit comments on or before February 12, 2010. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at (202) 395–5167, or via the Internet at Nicholas_A._Fraser@omb.eop.gov and to Judith B. Herman, Federal Communications Commission (FCC). To submit your PRA comments by e–mail send them to: PRA@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, OMD, 202–418–0214. For additional information about the information collection(s) send an e–mail to PRA@fcc.gov or contact Judith B. Herman, 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No: 3060–1096.

Title: Prepaid Calling Card Service Provider Certification, WC Docket No. 05–68.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit.

Number of Respondents: 158 respondents; 1,896 responses.

Estimated Time Per Response: 2.5 – 20 hours.

Frequency of Response: Quarterly reporting requirement, third party disclosure requirement and recordkeeping requirement.

Obligation to Respond: Mandatory. Statutory authority for this collection of information is contained in 47 U.S.C. Sections 151, 152, 154(i), 201, 202 and 254.

Total Annual Burden: 15,800 hours.

Total Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission does not anticipate providing confidentiality of the information submitted by prepaid calling card providers. Particularly, the prepaid calling card providers must sent reports to their transport providers. Additionally, the quarterly certifications sent to the Commission will be made public through the ECFS process. These certifications will be filed in the Commission's docket associated with this proceeding. If the respondents submit information they believe to be confidential, they may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Need and Uses: The Commission will submit this information collection as an extension (no change in the reporting, recordkeeping and/or third party disclosure requirements) after this 60 day comment period to the Office of Management and Budget (OMB) in order to obtain the full three year clearance from them. The Commission has adjusted the total burden hour estimate by –62,900 hours which is due fewer respondents.

Prepaid calling car providers are to report on a quarterly basis the percentage of interstate, intrastate and international traffic and call volumes to carriers from which they purchase transport services. Prepaid calling card providers must also file certifications with the Commission quarterly that include the above information and a statement that they are contributing to the federal Universal Service Fund (USF) based on all interstate and international revenue, except for revenue from the sale of prepaid calling cards by, to, or pursuant to contract with the Department of Defense (DoD) or a DoD entity.

The Commission has found that prepaid calling card providers are telecommunications service providers and therefore are subject to all of the regulations imposed on telecommunications service providers, including contributing to the USF. See FCC 06–79.

In the Communications Act of 1934, as amended (the Act), Congress directed the Commission to implement measure necessary to promote the advancement of universal service. In furtherance of this goal, section 254(d) of the Act states that ''every telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service.'' In addition, telecommunications carriers are required to pay intrastate and interstate access charges. The reporting and certification requirement will allow the Commission to ensure that prepaid calling card providers are complying with these requirements.

The Commission adopted reporting and certification requirements to obtain information necessary to evaluate whether all prepaid calling card providers are properly contributing to the USF, pursuant to section 254 of the Act. All prepaid calling card providers will now have to maintain records and report quarterly the percentage of interstate, intrastate and international traffic and call volumes to carriers from which they purchase transport services.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. E9–29643 Filed 12–11–8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting; December 16, 2009

Date: December 9, 2009.

The Federal Communications Commission will hold an Open Meeting on Wednesday, December 16, 2009, which is scheduled to commence at 10 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, D.C.

The meeting will feature a presentation on the status of the National Broadband Plan. The

presentation will focus on the policy framework for the plan.

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disability are available upon request. In your request include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute request will be accepted, but may be impossible to fill. Send an e–mail to: fcc504@fcc.gov or call the Consumer & Government Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fisk, Office of Media Relations, 202–418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcasted live with open captioning over Internet from the FCC Audio/Video Events Web page at http://www.fcc.gov/realaudio.

For a fee this meeting can be viewed live over George Mason University's Capital Connection. The Capital Connection also will carry the meeting live via the Internet. To purchase these services, call 703–993–3100 or go to http://www.capitalconnection.gmu.edu.

Copies of material adopted at this meeting can be purchased from the FCC's duplicating contractor, Best Copy and Printing, Inc., 202–488–5300; Fax 202–488–5563; TTY 202–488–5562. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio and video tape. Best Copy and Printing, Inc. may be reached by e–mail at FCC@BCPIWEB.com.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. E9–29735 Filed 12–10–09; 11:15 am]

BILLING CODE 6712–01–S

FEDERAL ELECTION COMMISSION

[Notice 2009–29]

Filing Dates for the Florida Special Election in the 19th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: The Governor of Florida has rescheduled the date of the Special General Election to fill the U.S. House seat in the 19th Congressional District being vacated by Representative Robert Wexler. The Special General Election, formerly set for April 6, 2010, will now be held on April 13, 2010. The Special Primary Election date remains unchanged.

Committees required to file reports in connection with the Special Primary Election on February 2, 2010, shall file a 12-day Pre-Primary Report. Committees required to file reports in connection with both the Special Primary and Special General Election on April 13, 2010, shall file a 12-day Pre-Primary Report, a 12-day Pre-General Report, and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin R. Salley, Information Division, 999 E Street, NW., Washington, DC 20463; *Telephone:* (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the Florida Special Primary and Special General Elections shall file a 12-day Pre-Primary Report on January 21, 2010; a 12-day Pre-General Report on April 1, 2010; and a 30-day Post-General Report on May 13, 2010. (See chart below for the closing date for each report).

All principal campaign committees of candidates participating *only* in the Special Primary Election shall file a 12-day Pre-Primary Report on January 21, 2010. (See chart below for the closing date for each report).

Note that these reports are in addition to the campaign committee's quarterly filings in April and July. (See chart below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees filing on a quarterly basis in 2010 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Florida Special Primary or Special General Elections by the close of books for the applicable report(s). (See chart below for the closing date for each report).

Since disclosing financial activity from two different calendar years on one report would conflict with the calendar year aggregation requirements stated in the Commission's disclosure rules, unauthorized committees that trigger the filing of the Pre-Primary Report will be required to file this report on two separate forms: One form to cover 2009 activity, labeled as the Year-End Report; and the other form to cover only 2010 activity, labeled as the Pre-Primary Report. Both forms must be filed by January 21, 2010.

Committees filing monthly that make contributions or expenditures in connection with the Florida Special Primary or Special General Elections will continue to file according to the monthly reporting schedule.

Additional disclosure information in connection with the Florida Special Election may be found on the FEC Web site at *http://www.fec.gov/info/report_dates.shtml.*

Disclosure of Lobbyist Bundling Activity

Campaign committees, party committees and Leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of the lobbyist bundling disclosure threshold during the special election reporting periods (see charts below for closing date of each period). 11 CFR 104.22(a)(5)(v).

The lobbyist bundling disclosure threshold for calendar year 2009 is $16,000. This threshold amount may increase in 2010 based upon the annual cost of living adjustment (COLA). As soon as the adjusted threshold amount is available, the Commission will publish it in the **Federal Register** and post it on its Web site. 11 CFR 104.22(g) and 110.17(e)(2). For more information on these requirements, *see* **Federal Register** Notice 2009–03, 74 FR 7285 (February 17, 2009).

CALENDAR OF REPORTING DATES FOR FLORIDA SPECIAL ELECTION

Report	Close of books[1]	Reg. cert. & overnight mailing deadline	Filing deadline
Committees Involved in *Only* the Special Primary (02/02/10) Must File			
Year-End	—WAIVED —		
Pre-Primary	01/13/10	[2] 01/18/10	01/21/10
April Quarterly	03/31/10	04/15/10	04/15/10
Committees Involved in Both the Special Primary (02/02/10) and Special General (04/13/10) Must File			
Year-End	—WAIVED—		
Pre-Primary	01/13/10	[2] 01/18/10	01/21/10
Pre-General	03/24/10	03/29/10	04/01/10
April Quarterly	03/31/10	04/15/10	04/15/10
Post-General	05/03/10	05/13/10	05/13/10
July Quarterly	06/30/10	07/15/10	07/15/10
Committees Involved in *Only* the Special General (04/13/10) Must File			
Pre-General	03/24/10	03/29/10	04/01/10
April Quarterly	03/31/10	04/15/10	04/15/10
Post-General	05/03/10	05/13/10	05/13/10
July Quarterly	06/30/10	07/15/10	07/15/10

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee with the Commission up through the close of books for the first report due.

[2] Notice that the registered/certified & overnight mailing deadline falls on a federal holiday. The report should be postmarked on or before that date.

On behalf of the Commission.

Dated: December 8, 2009.

Steven T. Walther,

Chairman, Federal Election Commission.

[FR Doc. E9–29611 Filed 12–11–09; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

[Notice 2009–28]

Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record

AGENCY: Federal Election Commission.

ACTION: Statement of Policy.

SUMMARY: The Federal Election Commission will resume the practice of placing all First General Counsel's Reports on the public record, subject to appropriate redaction or withholding.

DATES: December 14, 2009.

FOR FURTHER INFORMATION CONTACT: Lawrence Calvert, Deputy General Counsel, or Nicole St. Louis Matthis, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Federal Election Commission is returning to its prior practice of placing First General Counsel's Reports on the public record to promote transparency.

I. Background

For approximately the first 25 years of its existence, the Federal Election Commission (''Commission'') placed on the public record, at the close of an enforcement matter, all materials considered by the Commissioners in their disposition of a case, except for those materials prohibited from disclosure by the Federal Election Campaign Act (''FECA'' or ''the Act'') or, in most instances, those exempt from disclosure under the Freedom of Information Act (''FOIA'').

In 2001, following the decision of the district court in *AFL–CIO* v. *FEC,* 177 F. Supp. 2d 48 (D.D.C. 2001) (''*AFL–CIO''*), the Commission placed on the public record only those documents that reflected the very final action in an enforcement matter and the reasons for that action. Then, after the court of appeals decision in the *AFL–CIO* case, 333 F.3d 168 (DC Cir. 2003), the Commission adopted an interim policy, in which it said it would place on the public record, among other things, ''General Counsel's Reports that recommend dismissal, reason to believe, no reason to believe, no action at this time, probable cause to believe, no probable cause to believe, no further action, or acceptance of a conciliation agreement[.]'' *See* Statement of Policy Regarding Disclosure of Closed Enforcement or Related Files, 68 FR 70423 (Dec. 20, 2003) (''Interim Disclosure Policy'').

In 2006, the Commission reconsidered its practice of placing First General Counsel's Reports on the public record after a case arose in which the Commission adopted a recommendation offered by the Office of General Counsel (''OGC'') in a General Counsel's Report, but rejected one of several underlying rationales for the recommendation. Thereafter, OGC began recommending the approval of a Factual & Legal Analysis (''F&LA'') in all cases, not just those with reason to believe recommendations. From January 2007 forward, F&LAs providing an explanation for the Commission's decisions were placed on the public record in new enforcement matters, but First General Counsel's Reports were not.

II. Return to Prior Practice

In the interest of promoting transparency, the Commission is resuming the practice of placing all First General Counsel's Reports on the public record, whether or not the recommendations in these First General Counsel's Reports are adopted by the Commission.

The Commission will place all First General Counsel's Reports on the public record in closed enforcement matters, prospectively and retroactively, while

reserving the right to redact portions of such documents consistent with the Act, the principles articulated by the court of appeals in *AFL–CIO,* and subject to the Commission's authority to withhold material under an exemption set forth in the FOIA.

Until such time as all previously undisclosed First General Counsel's Reports have been placed on the public record, the Commission intends to approve any FOIA request seeking a First General Counsel's Report or accompanying F&LA that has not yet been placed on the public record, but reserves the right to redact portions of such documents consistent with the Act, the principles articulated by the court of appeals in *AFL–CIO,* and subject to the Commission's authority to withhold material under an exemption set forth in the FOIA.

This document amends an agency practice or procedure. This document does not constitute an agency regulation requiring notice of proposed rulemaking, opportunities for public comment, prior publication, and delay effective under 5 U.S.C. 553 of the Administrative Procedure Act (''APA''). The provisions of the Regulatory Flexibility Act, 5 U.S.C. 605(b), which apply when notice and comment are required by the APA or another statute, are not applicable.

On behalf of the Commission.

Dated: December 4, 2009.

Steven T. Walther,

Chairman, Federal Election Commission.

[FR Doc. E9–29609 Filed 12–11–09; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 30, 2009.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. The Robert and Norman Ohlde Trust, Robert and Norma Ohlde, trustees; Steven and Cynthia Ohlde, all of Linn, Kansas; and Timothy and Debra Ohlde, Clyde, Kansas, acting in concert; to retain/acquire voting shares of Elkcorp, Inc., and thereby indirectly retain/acquire voting shares of The Elk State Bank, both in Clyde, Kansas.

Board of Governors of the Federal Reserve System, December 9, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–29651 Filed 12–11–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/.*

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 8, 2010.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. Excel Bancorp, LLC, St. Clairsville, Ohio; to become a bank holding company by acquiring a controlling interest in Ohio Legacy Corp., and thereby indirectly acquire Ohio Legacy Bank, N.A., Wooster, Ohio.

Board of Governors of the Federal Reserve System, December 9, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–29652 Filed 12–11–09; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0293]

Peter Xuong Lam: Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (the act) debarring Peter Xuong Lam for a period of 20 years from importing articles of food or offering such articles for importation into the United States. FDA bases this order on a finding that Mr. Lam was convicted of four felonies under Federal law for conduct relating to the importation into the United States of an article of food. After being given notice of the proposed debarment and an opportunity to request a hearing within the timeframe prescribed by regulation, Mr. Lam failed to request a hearing. Mr. Lam's failure to request a hearing constitutes a waiver of his right to a hearing concerning this action.

DATES: This order is effective December 14, 2009.

ADDRESSES: Submit applications for termination of debarment to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kenny Shade, Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 240–632–6844.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(C) of the act (21 U.S.C. 335a(b)(1)(C)) permits FDA to debar an individual from importing an article of food or offering such an article for import into the United States if FDA finds, as required by section 306(b)(3)(A) of the act (21 U.S.C. 335a(b)(3)(A)), that the individual has been convicted of a felony under Federal law for conduct relating to the importation into the United States of any food.

On October 29, 2008, Mr. Lam was convicted in the United States District Court for the Central District of California of one count of conspiracy, in violation of 18 U.S.C. 371, for conspiring to violate 18 U.S.C. 545 (importation contrary to law) and 21 U.S.C. 331(a) and (c) and 21 U.S.C. 333(a)(2) (felony delivery and receipt of misbranded food) and of three counts of violating 18 U.S.C. 545 and 18 U.S.C. 2(b) (trafficking in fish contrary to 18 U.S.C. 541 and 21 U.S.C. 331(a)). Judgment was entered against Mr. Lam on May 22, 2009.

FDA's finding that debarment is appropriate is based on three felony convictions for trafficking in illegally imported merchandise and one felony conviction for conspiracy. The factual basis for those convictions is as follows: From May 2004 until on or about October 2006, Mr. Lam conspired to falsely identify, mislabel, and fraudulently declare certain imports of frozen fillets of *Pangasius hypophthalmus*, commonly referred to as ''Vietnamese catfish'' or ''basa,'' in order to evade antidumping duties and to then market them, still falsely labeled. Mr. Lam sold the imported frozen Vietnamese catfish fillets in the United States, mislabeled as other types of fish, for a lower price than would have been necessary if the antidumping duties had been paid. He told purchasers who had specifically ordered Vietnamese catfish, and who questioned the subsequently received boxes of fish labeled as other species, or invoices identifying the fish as other species, that, among other things, the names used were alternative names for what the purchasers had ordered, or that the factory had made an error with the boxes, but the contents of the box were in fact the Vietnamese catfish that the purchasers had ordered. On or about November 17, 2004, Mr. Lam filled an order for 800 cases of ''catfish fillet (Basa)'' with 800 cases of ''conger pike fillet,'' and then represented to the purchaser that ''conger pike fillet'' was the scientific name for basa and that the product sold to the purchaser was basa.

On or about November 7, 2004, December 7, 2004, February 3, 2005, and February 27, 2005, in violation of 18 U.S.C. 545 and 18 U.S.C. 2(b), Mr. Lam made and knowingly submitted to a customs broker a false record, account, and label for false identification of fish with a market value greater than $350. The documents and labels identified the fish as ''common carp,'' ''sole,'' and ''conger pike,'' though Mr. Lam knew the fish was Vietnamese catfish which had been transported in foreign commerce and imported with intent to sell.

FDA sent Mr. Lam by certified mail on September 11, 2009, a proposal to debar Mr. Lam for a period of 20 years from importing an article of food or offering such an article for import into the United States. The proposal was based on a finding under section 306(b)(1)(C) of the act that Mr. Lam was convicted of four felonies under Federal law for conduct relating to the importation into the United States of any food, and a determination, after consideration of the factors set forth in section 306(c)(3) of the act (21 U.S.C. 335a(c)(3)), that the full periods of debarment shall run consecutively as provided by section 306(c)(2)(A)(iii) of the act (21 U.S.C. 335a(c)(2)(A)(iii)). The proposal also offered Mr. Lam an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Lam did not request a hearing and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Acting Director, Office of Enforcement, Office of Regulatory Affairs, under section 306(b)(1)(C) of the act, and under authority delegated to the Acting Director (Staff Manual Guide 1410.35), finds that Mr. Peter Xuong Lam has been convicted of four felonies under Federal law for conduct relating to the importation of an article of food into the United States and that the full periods of debarment shall run consecutively under section 306(c)(2) of the act (21 U.S.C. 335a(c)(2)).

As a result of the foregoing finding, Mr. Lam is debarred for a period of 20 years from importing articles of food or offering such articles for import into the United States, effective (see **DATES**). Under section 301(cc) of the act (21 U.S.C. 331(cc)), the importing or offering for import into the United States of an article of food by, with the assistance of, or at the direction of Mr. Lam is a prohibited act.

Any application by Mr. Lam for termination of debarment under section 306(d)(1) of the act (21 U.S.C. 335a(d)(1)) should be identified with Docket No. FDA–2009–N–0293 and sent to the Division of Dockets Management (see **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j).

Publicly available submissions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 20, 2009.

Brenda Holman,

Acting Director, Office of Enforcement, Office of Regulatory Affairs.

[FR Doc. E9–29715 Filed 12–11–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Heart, Lung, and Blood Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Advisory Council.

Date: February 2, 2010.

Open: 8 a.m. to 12 p.m.

Agenda: To discuss program policies and issues.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Closed: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Contact Person: Stephen C. Mockrin, PhD, Director, Division of Extramural Research Activities, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7100, Bethesda, MD 20892, (301) 435–0260, *mockrins@nhlbi.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nhlbi.nih.gov/meetings/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: December 8, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–29677 Filed 12–11–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; R03 Chemical Senses.

Date: January 13, 2010.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852. (Telephone Conference Call)

Contact Person: Susan Sullivan, PhD, Scientific Review Officer, National Institute of Deafness and Other, Communication Disorders 6120 Executive Blvd Ste., 400C, Rockville, MD 20852, 301–496–8683, *sullivas@mail.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; R03 VSL.

Date: January 14, 2010.

Time: 12:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852. (Telephone Conference Call)

Contact Person: Shiguang Yang, DVM, PhD, Scientific Review Officer, Division of Extramural Activities, NIDCD, NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; R03 Hearing and Balance.

Date: January 15, 2010.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852. (Telephone Conference Call)

Contact Person: Shiguang Yang, DVM, PhD, Scientific Review Officer, Division of Extramural Activities, NIDCD, NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: December 8, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–29680 Filed 12–11–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Science Education Awards (R25).

Date: January 5, 2010.

Time: 10:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call)

Contact Person: Edward W. Schroder, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, 301–435–8537, *eschroder@niaid.nih.gov.*

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases Research Committee.

Date: February 22–23, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Courtyard Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Michelle M. Timmerman, PhD, Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, Room 2217, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, 301–451–4573, *timmermanm@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: December 8, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–29681 Filed 12–11–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, January 7, 2010, 2:30 p.m. to January 7, 2010, 4 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on December 8, 2009, 74 FR 64703.

The ending time of the meeting on January 7, 2010 has been changed to 4:30 p.m. The meeting title has been changed to ''Member Conflict: Clinical Cardiovascular''. The meeting is closed to the public.

Dated: December 8, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–29683 Filed 12–11–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Archiving of Adolescent Pregnancy Prevention Research Data.

Date: January 6, 2010.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate concept review.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852. (Telephone Conference Call)

Contact Person: Sathasiva B. Kandasamy, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute, of Child Health and Human Development, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892–9304, (301) 435–6680, *skandasa@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: December 8, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–29685 Filed 12–11–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group; Subcommittee I—Career Development.

Date: January 26–27, 2010.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Crystal City, 2399 Jefferson Davis Hwy, Arlington, VA 22202.

Contact Person: Robert E Bird, PhD, Chief, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8113, Bethesda, MD 20892–8328, 301–496–7978, *birdr@mail.nih.gov*.

Name of Committee: National Cancer Institute Initial Review Group; Subcommittee G—Education.

Date: January 26, 2010.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Bethesda North Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Jeannette F Korczak, PhD, Scientific Review Administrator, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Room 8115, Bethesda, MD 20892, 301–496–9767, *korczakj@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: December 7, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–29684 Filed 12–11–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institutes of Health Peer Review Advisory Committee, February 1, 2010, 8 a.m. to February 1, 2010, 5 p.m., Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852 which was published in the **Federal Register** on November 25, 2009, 74 FR 61693.

The starting time of the meeting on February 1, 2010 has been changed to 8:15 a.m. until adjournment at 5 p.m. The meeting date and location remain the same. The meeting is open to the public.

Dated: December 8, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–29682 Filed 12–11–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

Agency Information Collection Activities: Administrative Rulings

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing information collection: 1651–0085.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Administrative Rulings. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (74 FR 49392) on September 28, 2009, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before January 13, 2010.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

SUPPLEMENTARY INFORMATION: U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L.104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Administrative Rulings.

OMB Number: 1651–0085.

Form Number: None.

Abstract: The collection of information in 19 CFR Part 177 is necessary in order to enable Customs and Border Protection (CBP) to respond to requests by importers and other interested persons for the issuance of administrative rulings. These rulings pertain to the interpretation and application of the CBP and related laws with respect to prospective and current transactions.

Current Actions: There are no changes to the information collection. This submission is being made to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses.

Rulings:

Estimated Number of Respondents: 12,000.

Estimated Time per Respondent: 10 hours.

Estimated Total Annual Burden Hours: 120,000.

Appeals:

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 40 hours.

Estimated Total Annual Burden Hours: 8,000.

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW., 7th Floor, Washington, DC 20229–1177, at 202–325–0265.

Dated: December 8, 2009.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. E9–29607 Filed 12–11–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

Agency Information Collection Activities: Holders or Containers Which Enter the United States Duty Free

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing information collection: 1651–0035.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Holders or Containers which Enter the United States Duty Free. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (74 FR 51297) on October 6, 2009, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before January 13, 2010.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

SUPPLEMENTARY INFORMATION: U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L. 104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Holders or Containers which Enter the United States Duty Free.

OMB Number: 1651–0035.

Form Number: None.

Abstract: This collection of information is to implement Item 9801.00.10 of the Harmonized Tariff Schedules of the United States (HTSUS) which provides that articles that were manufactured in the U.S. and exported and returned without having been advanced in value or improved in condition may be brought back into the U.S. duty-free. It also allows CBP to implement 9803.00.50 (HTSUS) which provides for the duty-free entry of substantial holders or containers of foreign manufacture if duty had been paid upon a previous importation pursuant to the provisions of 19 CFR 10.41b.

Current Actions: There are no changes to the information collection. This submission is being made to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 20.

Estimated Number of Responses per Respondent: 18.

Estimated Number of Total Annual Responses: 360.

Estimated Total Annual Burden Hours: 90.

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW., 7th Floor, Washington, DC. 20229–1177, at 202–325–0265.

Dated: December 8, 2009.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. E9–29608 Filed 12–11–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2009–0011]

Fee Schedule for Processing Requests for Map Changes, for Flood Insurance Study Backup Data, and for National Flood Insurance Program Map and Insurance Products

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice contains the revised fee schedules for processing certain types of requests for changes to National Flood Insurance Program (NFIP) maps, for processing requests for Flood Insurance Study (FIS) technical and administrative support data, and for processing requests for particular NFIP map and insurance products. The changes in the fee schedules will allow the Federal Emergency Management Agency (FEMA) to reduce further the expenses to the NFIP by recovering more fully the costs associated with processing conditional and final map change requests; retrieving, reproducing, and distributing technical and administrative support data related to FIS analyses and mapping; and producing, retrieving, and distributing particular NFIP map and insurance products.

DATES: The revised fee schedules are effective for all requests dated, or later.

The revised fee schedule for map changes is effective for all requests dated January 13, 2010, or later. The revised fee schedule supersedes the current fee schedule, which was established on October 1, 2007.

The revised fee schedule for requests for FIS backup data also is effective for all requests dated January 13, 2010, or later. The revised fee schedule supersedes the current fee schedule, which was established on October 1, 2007.

The revised fee schedule for requests for particular NFIP map and insurance products, which are available through the FEMA Map Service Center (MSC) is effective for all written requests, on-line Internet requests made through the MSC Web site, and all telephone requests received on or after January 13, 2010. The revised fee schedule supersedes the current fee schedule, which was established on October 1, 2007.

FOR FURTHER INFORMATION CONTACT: Kathy Miller, Branch Chief, Business Analysis Branch, Risk Analysis Division, DHS/FEMA, 1800 South Bell Street, Crystal City, VA 20598–3030; by telephone at (202) 646–3316 or by facsimile at (202) 646–2787 (not toll-free calls); or by e-mail at *kathy.miller@dhs.gov*.

SUPPLEMENTARY INFORMATION: This notice contains the revised fee schedules for processing certain types of requests for changes to National Flood Insurance Program (NFIP) maps, for processing requests for Flood Insurance Study (FIS) technical and administrative support data, and for processing requests for particular NFIP map and insurance products. The changes in the fee schedules will allow the Federal Emergency Management Agency (FEMA) to reduce further the expenses to the NFIP by recovering more fully the costs associated with processing conditional and final map change requests; retrieving, reproducing, and distributing technical and administrative support data related to FIS analyses and mapping; and producing, retrieving, and distributing particular NFIP map and insurance products.

Evaluations Performed. To develop the revised fee schedule for conditional and final map change requests, FEMA evaluated the actual costs of reviewing and processing requests for Conditional Letters of Map Amendment (CLOMAs), Conditional Letters of Map Revision Based on Fill (CLOMR–Fs), Conditional Letters of Map Revision (CLOMRs), Letters of Map Revision Based on Fill (LOMR–Fs), and Letters of Map Revision (LOMRs).

To develop the revised fee schedule requests for FIS technical and administrative support data, FEMA evaluated the actual costs of reviewing, reproducing, and distributing archived data in seven categories. These categories are discussed in more detail below.

To develop the revised fee schedule for requests for particular NFIP map and insurance products, FEMA: (1) Evaluated the actual costs incurred at the Map Service Center (MSC) for producing, retrieving, and distributing those products; (2) analyzed historical sales, cost data, and product unit cost for unusual trends or anomalies; and, (3) analyzed the effect of program changes, new products, technology investments, and other factors on future sales and product costs. The products covered by this notice are discussed in detail below.

Periodic Evaluations of Fees. A primary component of the fees is the prevailing private-sector rates charged to FEMA for labor and materials.

Because these rates and the actual review and processing costs may vary from year to year, FEMA will evaluate the fees periodically and publish revised fee schedules, when needed, as notices in the **Federal Register**.

Fee Schedule for Requests for Conditional Letters of Map Amendment and Conditional and Final Letters of Map Revision Based on Fill

Based on a review of actual cost data for Fiscal Year 2007 and Fiscal Year 2008, FEMA maintained the following review and processing fees, which are to be submitted with all requests:

Request for single-lot/single-structure CLOMA and CLOMR–F: $500.

Request for single-lot/single-structure LOMR–F: $425.

Request for single-lot/single-structure LOMR–F based on as-built information (CLOMR–F previously issued by FEMA): $325.

Request for multiple-lot/multiple-structure in a single subdivision or within contiguous subdivisions CLOMA: $700.

Request for multiple-lot/multiple-structure in a single subdivision or within contiguous subdivisions CLOMR–F and LOMR–F: $800.

Request for multiple-lot/multiple-structure in a single subdivision or within contiguous subdivisions LOMR–F based on as-built information (CLOMR–F previously issued by FEMA): $700.

Fee Schedule for Requests for Conditional Map Revisions

Based on a review of actual cost data for Fiscal Year 2007 and Fiscal Year 2008, FEMA established the following review and processing fees, which are to be submitted with all requests that are not otherwise exempted under 44 CFR 72.5:

Request based on new hydrology, bridge, culvert, channel, or combination thereof: $4,400.

Request based on levee, berm, or other structural measure: $6,050.

Fee Schedule for Requests for Map Revisions

Based on a review of actual cost data for Fiscal Year 2007 and Fiscal Year 2008, FEMA established the following review and processing fees, which are to be submitted with all requests that are not otherwise exempted under 44 CFR 72.5. Requesters must submit the review and processing fees shown below with requests for LOMRs dated January 13, 2010, or later that are not based on structural measures on alluvial fans.

Request based on bridge, culvert, channel, hydrology, or combination thereof: $5,300.

Request based on levee, berm, or other structural measure: $7,150.

Request based on as-built information submitted as follow-up to CLOMR: $5,000.

Fees for Conditional and Final Map Revisions Based on Structural Measures on Alluvial Fans

Based on a review of actual cost data for Fiscal Year 2007 and Fiscal Year 2008, FEMA has maintained $5,600 as the initial fee for requests for CLOMRs and LOMRs based on structural measures on alluvial fans. FEMA will also continue to recover the remainder of the review and processing costs by invoicing the requester before issuing a determination letter, consistent with current practice. The prevailing private-sector labor rate charged to FEMA ($60 per hour) will continue to be used to calculate the total reimbursable fees.

Fee Schedule for Requests for Flood Insurance Study Backup Data

Non-exempt requestors of FIS technical and administrative support data must submit fees shown below with requests dated January 13, 2010, or later. These fees are based on the complete recovery costs to FEMA for retrieving, reproducing, and distributing the data, as well as maintaining the library archives, and for collecting and depositing fees. Based on a review of actual cost data for Fiscal Year 2007 and Fiscal Year 2008, FEMA maintained the following review and processing fees from the October 1, 2007, fee schedule, which are to be submitted with all requests.

All entities except the following will be charged for requests for FIS technical and administrative support data:

- Private architectural-engineering firms under contract to FEMA to perform or evaluate studies and restudies;
- Federal agencies involved in performing studies and restudies for FEMA (*e.g.,* U.S. Army Corps of Engineers, U.S. Geological Survey, Natural Resources Conservation Service, and Tennessee Valley Authority);
- Communities that have supplied the Digital Line Graph base to FEMA and request the Digital Line Graph data (Category 6 below);
- Communities that request data during the statutory 90-day appeal period for an initial or revised FIS for that community;
- Mapped participating communities that request data at any time other than during the statutory 90-day appeal period, provided the data is requested for use by the community and not a third-party user; and
- State NFIP Coordinators, provided the data requested is for use by the State NFIP Coordinators and not a third-party user.

FEMA has established seven categories into which requests for FIS backup data is separated. These categories are:

(1) *Category 1*—Paper copies, microfiche, or diskettes of hydrologic and hydraulic backup data for current or historical FISs;

(2) *Category 2*—Paper or mylar copies of topographic mapping developed during FIS process;

(3) *Category 3*—Paper copies or microfiche of survey notes developed during FIS process;

(4) *Category 4*—Paper copies of individual Letters of Map Change (LOMCs);

(5) *Category 5*—Paper copies of Preliminary Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM) panels;

(6) *Category 6*—Computer tapes or CD–ROMs of Digital Line Graph files, Digital Flood Insurance Rate Map files, or Digital LOMR attachment files; and

(7) *Category 7*—Computer diskettes and user's manuals for FEMA computer programs.

FEMA established the initial non-refundable fee of $150 non-exempt requesters of FIS technical and administrative support data pay to initiate their request under Categories 1, 2, and 3 above. This fee covers the preliminary costs of research and retrieval. If the data requested is available and the request is not cancelled, the final fee due is calculated as a sum of standard per-product charge plus a per-case surcharge of $93, designed to recover the cost of library maintenance and archiving. The total costs of processing requests in Categories 1, 2, and 3 will vary based on the complexity of the research involved in retrieving the data and the volume and medium of data to be reproduced and distributed. The initial fee will be applied against the total costs to process the request, and FEMA will invoice the requester for the balance plus the per-case surcharge before the data is provided. No data will be provided to a requester until all required fees have been paid.

No initial fee is required to initiate a request for data under Categories 4 through 7. Requesters will be notified by telephone about the availability of the data and the fees associated with the requested data.

As with requests for data under Categories 1, 2, and 3, no data will be provided to requesters until all required fees are paid. A flat user fee for each of

these categories of requests, shown below, will continue to be required.

Request Under Category 4 (First Letter): $40.

Request Under Category 4 (Each additional letter): $10.

Request Under Category 5 (First panel): $35.

Request Under Category 5 (Each additional panel): $2.

Request Under Category 6 (per county/digital LOMR attachment shapefiles): $150.

Request Under Category 7 (per copy): $25.

Fee Schedule for Requests for Map and Insurance Products

The MSC distributes a variety of NFIP map and insurance products to a broad range of customers, including Federal, State, and local government officials; real estate professionals; insurance providers; appraisers; builders; land developers; design engineers; surveyors; lenders; homeowners; and other private citizens. The MSC distributes the following products:

- Digital copies of Conversion Letters, downloadable from the web;
- Digital copies of Flood maps, available on CD/DVD–ROM and downloadable from the web; which can be purchased by panel or in community, county, or State kits;
- Digital copies of FISs and FBFMs (where applicable), including the narrative report, tables, Flood Profiles, and other graphics, on CD/DVD–ROM and downloadable from the web;
- Digital FIRM (DFIRM) Database (DB), with and without orthographic photos, on CD/DVD–ROM and downloadable from the Web;
- Digital Q3 Flood Data files, which FEMA developed by scanning the published FIRM and vectorizing a thematic overlay of flood risks;
- Digital Q3 Flood Data files for Coastal Barrier Resource Areas (CBRA Q3 Flood Data files);
- Flood Map Status Information Service (FMSIS), through which FEMA provides status information for effective NFIP maps;
- Letter of Map Change (LOMC) Subscription Service, through which FEMA makes certain types of LOMCs available biweekly on CD–ROM;
- Paper (printed) and CD copies of NFIP Insurance Manual (Full Manual), which provides vital NFIP information for insurance agents nationwide;
- Paper (printed) copies of NFIP Insurance Manual (Producer's Edition), which is used for reference and training purposes;
- Community Map Action List (CMAL), which is a semimonthly list of communities and their NFIP status codes;
- FIRMette, a user-defined ''cut-out'' section of a flood map at 100 percent map scale designed for printing on a standard office printer;
- FIRMette—Desktop (formerly F–MIT Basic Version 1.0), which is a view tool for map images, on CD–ROM and downloadable from the web;
- MapViewer—Desktop (formerly DFIRM CD Viewer), which is a view tool for map images, on CD–ROM;
- FEMA's *Guidelines and Specifications for Flood Hazard Mapping Partners* on CD–ROM; and
- MHIP—*Multi-year Hazard Implementation Plan* on CD–ROM.

For more information on the map and insurance products available from the MSC, interested parties are invited to visit the MSC Web site at *http://msc.fema.gov.*

Based on a review of actual cost data and future trends, FEMA has revised the fee schedule for the map and insurance products that are available from the MSC. For digital copies of Flood Hazard Boundary Maps (FHBMs), FIRMs, DFIRMs DBs (with and without orthographic photos), FBFMs, and FISs on CD/DVD–ROM, FEMA has maintained the processing fee and shipping cost; for digital copies of conversion letters, FHBMs, FIRMs, DFIRM DBs (with and without orthographic photos), FBFMs, and FISs downloadable from the web, FEMA has maintained the processing fee; for FMSIS, LOMC Subscription Service, FEMA's *Guidelines and Specifications for Flood Hazard Mapping Partners,* MHIP, MapViewer—Desktop, FEMA has maintained the shipping cost; and for Q3 Flood Data Files and CBRA Flood Data Files, FEMA has increased the shipping cost. Federal, State, and local governments continue to be exempt from paying fees for the map products. The revised fee schedule for the current and new products is shown in the table below.

Product	Current fee	Shipping
Internet Products		
FIRMettes	Free	N/A.
Letters	$2.50 per letter	N/A.
Downloadable Maps	$2.50 per panel	N/A.
Downloadable Floodways	$2.50 per panel	N/A.
Downloadable Studies	$5.00 per study	N/A.
DFIRM Database (DB)	$10.00 per DB	N/A.
CD–ROM		
CD Maps	$4.00 per panel	$1.75 for first 2 CDs and $0.25 for each additional CD.
CD Floodways	$4.00 per panel	$1.75 for first 2 CDs and $0.25 for each additional CD.
CD Studies	$6.00 per study	$1.75 for first 2 CDs and $0.25 for each additional CD.
DFIRM DB	$10.00 per database	$1.75 for first 2 CDs and $0.25 for each additional CD.
DFIRM w/Orthos	$10.00 per database	$1.75 for first 2 CDs and $0.25 for each additional CD.
Q3 on CD	$50.00 per CD–Rom	$2.00 for first CD and $1.00 for each additional CD.
CBRA Q3 on CD	$50.00 per CD–Rom or $200 for all 5 Q3 CDs	$2.00 for first CD and $1.00 for each additional CD.
FMSIS (Individual Orders)	$13.00 per State or $38.00 for entire USA	$1.75 for first 2 CDs and $0.25 for each additional CD.
FMSIS (Annual Subscription)	$148.00 per State or $419.00 or entire USA	N/A.
LOMC Subscription Service (Individual Orders)	$85.00 per issue	$1.75 for first 2 CDs and $0.25 for each additional CD.

Product	Current fee	Shipping
LOMC Subscription Service (Annual Subscriptions).	$2,000 per year	N/A.
FEMA's Guidelines and Specifications for Flood Hazard Mapping Partners on CD.	$2.60	$1.75 for first 2 CDs and $0.25 for each additional CD.
MHIP—Multi-Hazard Implementation Plan	$2.60	$1.75 for first 2 CDs and $0.25 for each additional CD.
View Tool		N/A.
FIRMette—Desktop on Web	Free	N/A.
FIRMette—Desktop on CD	Free	N/A.
MapViewer—Desktop	$30.00 per Viewer	$1.75 for first 2 CDs and $0.25 for each additional CD.
Manuals		
NFIP Insurance Manual (Full Manual)	$25.00 per subscription for two years	N/A.
NFIP Insurance Manual (Producer's Edition)	$15.00 per subscription for two years	N/A.
NFIP Insurance Manual (Full Manual) on CD	$25.00 per subscription for two years	N/A.
Other		
Community Map Action List (CMAL)	Free	N/A.

Payment Submission Requirements

Fee payments for non-exempt requests must be made in advance of services being rendered. These payments shall be made in the form of a check, money order, or by credit card payment. Checks and money orders must be made payable, in U.S. funds, to the

National Flood Insurance Program

FEMA will deposit all fees collected to the National Flood Insurance Fund, which is the source of funding for providing these services.

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; 44 CFR 72.3.

Dated: December 3, 2009.

Deborah S. Ingram,

Acting Deputy Assistant Administrator, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E9–29640 Filed 12–11–09; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5285–N–39]

Notice of Proposed Information Collection: Comment Request; Assisted Living Conversion Program (ALCP) for Eligible Multifamily Housing Projects and Emergency Capital Repair Program (ECRP)

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* February 12, 2010.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 402–8048.

FOR FURTHER INFORMATION CONTACT: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–3000, Ext. 2632, (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Assisted Living Conversion Program (ALCP) and Emergency Capital Repair Program (ECRP).

OMB Control Number, if applicable: 2502–0542.

Description of the need for the information and proposed use: The Assisted Living Conversion Program and the Emergency Capital Repair Program application submission requirements are necessary to assist HUD in determining an applicant's eligibility and the capacity to carry out a successful conversion of a project or make the necessary emergency repairs. A careful evaluation of the application is conducted to ensure that the Federal Government's interest is protected and to mitigate any possibilities of fraud, waste, or misuse of public funds. The purpose of collecting the application submission information is for the Department to assess the applicant's worthiness, whether the projects meet statutory and regulatory requirements, or make sound judgments regarding the potential risk to the Government.

Agency form numbers, if applicable: SF–424, SF–434–Supplemental, HUD–424–CB, HUD CBW, SF–LLL, HUD–2880, HUD–2990, HUD–2991, HUD–2530, HUD–96010, HUD–96011, HUD–50080–ALCP, SF–269, HUD–50080–ECRP, HUD–92045, HUD–92046, and HUD–92047.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of

burden hours is 2,519. The number of respondents is 85, the number of responses is 809, and the frequency of response is on yearly basis for the ALCP and for the ECRP is on as-submitted basis until exhaustion of funds.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: December 4, 2009.

Ronald Y. Spraker,

Acting General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. E9–29704 Filed 12–11–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5285–N–40]

Notice of Proposed Information Collection: Comment Request; Rent Schedule—Low Rent Housing

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date: February 12, 2010.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 402–8048.

FOR FURTHER INFORMATION CONTACT: Harry Messner, Office of Asset Management, Policy and Participation Standards Division, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–2121 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Rent Schedule—Low Rent Housing.

OMB Control Number, if applicable: 2502–0012.

Description of the need for the information and proposed use: This information is necessary for HUD to ensure that tenant rents are approved in accordance with HUD administrative procedures.

Agency form numbers, if applicable: Form HUD–92458.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of burden hours is 30,747. The number of respondents is 5,669, the number of responses is 5,669, the frequency of response is annually, and the burden hour per response is 5.33.

Status of the proposed information collection: This is an extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: December 4, 2009.

Ronald Y. Spraker,

Acting General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. E9–29705 Filed 12–11–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5285–N–41]

Notice of Proposed Information Collection: Comment Request; Eligibility of a Nonprofit Corporation/ Housing Consultant Certification

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* February 12, 2010.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202)402–8048.

FOR FURTHER INFORMATION CONTACT: Joyce Allen, Director, Office of Multifamily Housing Development, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–1142 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of

information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Eligibility of a Nonprofit Corporation/Housing Consultant Certification.

OMB Control Number, if applicable: 2502–0057.

Description of the need for the information and proposed use: The information collected on the ''Eligibility of a Nonprofit Corporation/Housing Consultant Certification'' form provides HUD with information to determine whether the sponsor has qualifications necessary for successful sponsorship of housing projects. HUD Program Offices use the data to evaluate a potential sponsor's/mortgagor's qualifications at the pre-application stage to determine that all the documentation required by Chapter 8 of the MAP and Chapter 14 of Handbook 4470.1

Agency form numbers, if applicable: HUD–3433, HUD–3434, HUD–3435, and HUD–92531.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of burden hours is 128. The number of respondents is 260; the number of responses is 290. The frequency of response is on occasion; and the hourly burden is 1hour and 45 mins.

Status of the proposed information collection: This is an extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: December 4, 2009.

Ronald Y. Spraker,

Acting General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. E9–29706 Filed 12–11–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5285–N–42]

Notice of Proposed Information Collection: Comment Request; Housing Counseling Training Program

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date: February 12, 2010.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 402–8048.

FOR FURTHER INFORMATION CONTACT: Ruth Román, Director, Program Support Division, Office of Single Family Program Development, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–2112 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Housing Counseling Training Program.

OMB Control Number, if applicable: 2502–0567.

Description of the need for the information and proposed use: The Housing Counseling Training NOFA, which requests narrative responses, forms, and supporting documentation, is used by the Department's Office of Single Family Housing, Program Support Division, to rank applications submitted through Grants.gov. The collection allows HUD to evaluate and select the most qualified applicant(s). Post-award collection, such as quarterly reports, will allow HUD to evaluate grantee performance.

Agency form numbers, if applicable: SF 424, SF 424 Supp, HUD 424CB, SF LLL, HUD 2880, HUD 96010, HUD 2994.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of burden hours is 409.68. The number of respondents is 15, the number of responses is 51, the frequency of response is on occasion, and the burden hour per response is 11.67.

Status of the proposed information collection: This is an extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: December 4, 2009.

Ronald Y. Spraker,

Acting General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. E9–29707 Filed 12–11–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Agency Information Collection Activities: USGS Earthquake Hazards Program (EHP) Annual Assistance Announcement

AGENCY: U.S. Geological Survey (USGS).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we (the U.S. Geological Survey) are notifying the public that we have submitted to the Office of Management and Budget (OMB) Notice of an extension of an information collection (1028–0051). This notice provides the public an opportunity to comment on the paperwork burden of this project. The Information Collection Request (ICR), which is summarized below, describes the nature and the estimated burden of the collection. We acknowledge that we may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATE: You must submit comments on or before January 13, 2010.

ADDRESSES: Please submit written comments on this information collection directly to the Office of Management and Budget (OMB) Office of Information and Regulatory Affairs, *Attention:* Desk Officer for the Department of the Interior via e-mail to *OIRA_DOCKET@omb.eop.gov* or fax at

202–395–5806; and identify your submission with Information Collection Number 1028–0051. Please also provide a copy of your comments to Phadrea Ponds, Information Collections, U.S. Geological Survey, 2150–C Center Avenue, Fort Collins, CO 80525 (mail); (970) 226–9230 (fax); or *FAX: pponds@usgs.gov* (e-mail). Use Information Collection Number 1028–0051 in the subject line.

FOR FURTHER INFORMATION CONTACT: Elizabeth Lemersal, Earthquake Hazards Program by telephone at (703) 648–6716.

I. Supplementary Information

Abstract

Research and monitoring findings are essential to fulfilling USGS's responsibility under the Earthquake Hazards Reduction Act to develop earthquake hazard assessments and recording and reporting earthquake activity nationwide. Residents, emergency responders, and engineers rely on the USGS for this accurate and scientifically sound information. Respondents to Program Announcements submit proposals to support research and monitoring related to earthquake hazard assessments, earthquake causes and effects, and earthquake monitoring. This information is used as the basis for selection and award of projects meeting the USGS's Earthquake Hazards Program objectives. Final reports of research and monitoring findings are required for each funded proposal; annual progress reports are required for awards of a two- to five-year duration. Final reports are made available to the public at the Web site *http://earthquake.usgs.gov/research/external/*.

II. Data

OMB Control Number: 1028–0051.

Title: Earthquake Hazards Program Research and Monitoring.

Type of Request: Extension of a currently approved collection.

Affected Public: Research scientists, engineers, and the general public.

Respondent Obligation: Required; necessary to receive benefits.

Frequency of Collection: Annually and once every three to five years.

Estimated Annual Number of and Description of Respondents: 250 Educational institutions, and profit and non-profit organizations.

Estimated Annual Number of Responses: 370 (250 applications and narratives and 120 annual and/or final reports).

Estimated Completion Time: 45 hours per application response and 9 hours per final report.

Estimated Annual Burden Hours: 12,330 (11,250 hours per application and 1,080 hours per annual and/or final report).

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 12,330 hours. We estimate the public reporting burden will average 45 hours per application response. This includes time to develop project goals, write the statement of work, perform internal proposal reviews, and submit the proposal through grants.gov. We estimate the public reporting burden will average 9 hours per final or annual report response. This includes summarizing accomplishments for the past year's funded efforts.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: There are no ''non-hour cost'' burdens associated with this collection of information.

III. Request for Comments

On September 22, 2009, we published a **Federal Register** notice (74 FR 48281) soliciting comments announcing that we would submit this information to OMB for approval. We solicited comments for a period of 60 days, ending on November 23, 2009. We did not receive any comments concerning that notice.

We again invite comments concerning this ICR on: (1) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether or not the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (4) ways to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

USGS Information Collection Clearance Officer: Phadrea Ponds 970–226–9445.

Dated: December 7, 2009.

David Applegate,

Senior Science Advisor for Earthquake and Geologic Hazards.

[FR Doc. E9–29642 Filed 12–11–09; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–14926–A, F–14926–A2; LLAK–965000–L14100000–KC0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving the surface estate in certain lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to The Kuskokwim Corporation, Successor in Interest to Chuathbaluk Company. The lands are in the vicinity of Chuathbaluk, Alaska, and are located in:

Seward Meridian, Alaska

T. 17 N., R. 53 W.,
Secs. 4, 18, 19, and 20.
Containing approximately 2,158 acres.

T. 18 N., R. 53 W.,
Secs. 29 and 32.
Containing 1,280 acres.

T. 17 N., R. 54 W.,
Secs. 1 and 13.
Containing approximately 1,086 acres.

T. 18 N., R. 54 W.,
Sec. 36.
Containing 640 acres.

T. 18 N., R. 55 W.,
Secs. 3 and 10.
Containing 1,280 acres.

T. 19 N., R. 55 W.,
Sec. 36.
Containing 640 acres.

T. 18 N., R. 56 W.,
Secs. 1, 12, 13, 14, and 23.
Containing approximately 3,122 acres.

T. 19 N., R. 56 W.,
Secs. 13, 24, 25, and 36.
Containing approximately 2,515 acres.

Aggregating approximately 12,721 acres.

The subsurface estate in these lands will be conveyed to Calista Corporation when the surface estate is conveyed to The Kuskokwim Corporation. Notice of the decision will also be published four times in the Tundra Drums.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by

the decision shall have until January 13, 2010 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Charles Lovely,

Land Transfer Resolution Specialist, Land Transfer Adjudication II Branch.

[FR Doc. E9–29686 Filed 12–11–09; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–14921–A, F–14921–B; LLAK–964000–L14100000–KC0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving the surface estate in certain lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Tikigaq Corporation. The lands are in the vicinity of Point Hope, Alaska, and are located in:

Kateel River Meridian, Alaska

T. 33 N., R. 31 W.,
Secs. 31 to 36, inclusive.
Containing approximately 3,839 acres.

T. 32 N., R. 32 W.,
Sec. 1.
Containing 640 acres.

Umiat Meridian, Alaska

T. 12 S., R. 58 W.,
Secs. 1 to 4, inclusive;
Sec. 10.
Containing approximately 3,090 acres.

T. 9 S., R. 60 W.,
Secs. 4 to 9, inclusive;
Secs. 17 and 18.
Containing approximately 4,956 acres.

T. 9 S., R. 61 W.,
Secs. 1, 2, 11, and 12.
Containing approximately 2,560 acres.

T. 11 S., R. 61 W.,
Secs. 23 to 26, inclusive;
Secs. 35 and 36.
Containing approximately 3,795 acres.
Aggregating approximately 18,880 acres.

The subsurface estate in these lands will be conveyed to Arctic Slope Regional Corporation when the surface estate is conveyed to Tikigaq Corporation. Notice of the decision will also be published four times in the Arctic Sounder.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until January 13, 2010 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Hillary Woods,

Land Law Examiner, Land Transfer Adjudication I Branch.

[FR Doc. E9–29693 Filed 12–11–09; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–8103–10, AA–8103–61, AA–8103–62, AA–8103–68, AA–8103–69, AA–8103–94, AA–8103–96; LLAK–964000–L14100000–KC0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving the surface and subsurface estates in certain lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Doyon, Limited. The lands are in the vicinity of Nikolai, Alaska, and are located in:

Kateel River Meridian, Alaska

T. 23 S., R. 22 E.,
Secs. 1 to 36, inclusive.
Containing approximately 22,937 acres.

T. 23 S., R. 23 E.,
Secs. 1 to 36, inclusive.
Containing approximately 22,937 acres.

T. 24 S., R. 23 E.,
Secs. 1 to 36, inclusive.
Containing approximately 23,004 acres.

T. 23 S., R. 24 E.,
Secs. 1 to 36, inclusive.
Containing approximately 22,937 acres.

T. 24 S., R. 24 E.,
Secs. 1 to 36, inclusive.
Containing approximately 23,004 acres.

T. 23 S., R. 25 E.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
Containing approximately 11,417 acres.
Aggregating approximately 126,236 acres.

Notice of the decision will also be published four times in the Fairbanks Daily News-Miner.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until January 13, 2010 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, seven days a

week, to contact the Bureau of Land Management.

Hillary Woods,

Land Law Examiner, Land Transfer Adjudication I Branch.

[FR Doc. E9–29690 Filed 12–11–09; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–6695–D, AA–6695–B2; LLAK–964000–L14100000–KC0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving the surface estate in certain lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Port Graham Corporation, for the Native village of Port Graham. The lands are in the vicinity of Port Graham, Alaska, and are located in:

Seward Meridian, Alaska

T. 7 S., R. 5 W.,
Secs. 7, 8, and 18.
Containing approximately 1,090 acres.

T. 7 S., R. 6 W.,
Secs. 12, 13, 25, and 36.
Containing approximately 1,941 acres.

T. 7 S., R. 7 W.,
Sec. 19.
Containing approximately 248 acres.

T. 7 S., R. 8 W.,
Secs. 25 and 36.
Containing approximately 420 acres.
Aggregating approximately 3,700 acres.

The subsurface estate in these lands will be conveyed to Chugach Alaska Corporation when the surface estate is conveyed to Port Graham Corporation. Notice of the decision will also be published four times in the Anchorage Daily News.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until January 13, 2010 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Hillary Woods,

Land Law Examiner, Land Transfer Adjudication I Branch.

[FR Doc. E9–29691 Filed 12–11–09; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–22568, F–22569; LLAK–962000–L14100000–HY0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving the conveyance of surface and subsurface estates for certain lands pursuant to the Alaska Native Claims Settlement Act will be issued to Doyon, Limited for 24.05 acres located north of the Native village of Beaver, Alaska. Notice of the decision will also be published four times in the Fairbanks Daily News-Miner.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until January 13, 2010 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Dina L. Torres,

Land Transfer Resolution Specialist, Resolution Branch.

[FR Doc. E9–29692 Filed 12–11–09; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVSO0530.L51010000.ER0000. LVRWF09F8630; NVN–084465; 09–08807; TAS:14X5017]

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Pacific Solar Investments Inc., Amargosa North Solar Project, Nye County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In compliance with the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Land Management (BLM) Pahrump, Nevada Field Office intends to prepare an Environmental Impact Statement (EIS) for a right-of-way (ROW) application submitted by Pacific Solar Investments, Inc. for a solar energy generation project. By this notice, the BLM is announcing the beginning of the scoping process to solicit public input on the identification of issues.

DATES: Comments on this Notice of Intent may be submitted in writing until February 12, 2010. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local media, newspapers, and the BLM Web site at: *http://www.blm.gov/nv/st/en/fo/lvfo.html.* In order to be considered by the BLM, comments must be received prior to the close of the scoping period or 15 days after the last public meeting, whichever is later. The BLM will provide additional opportunities for public participation upon publication of the Draft EIS.

ADDRESSES: You may submit comments related to the Proposed Pacific Solar Investments Inc., Amargosa North Solar Project by any of the following methods:

- *E-mail: NorthSolar_Proj@blm.gov* ;
- *Fax:* (702) 515–5010 (attention Gregory Helseth);

• *Mail:* Gregory Helseth, BLM Southern Nevada District Office, 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130–2301;

• *In person:* At any EIS public scoping meeting.

Documents pertinent to this proposal may be examined at the BLM Southern Nevada District Office.

FOR FURTHER INFORMATION CONTACT: Gregory Helseth, Renewable Energy Project Manager, (702) 515–5173; or e-mail *NorthSolar_Proj@blm.gov.* You may also use this contact information to request that your name be added to the project mailing list.

SUPPLEMENTARY INFORMATION: Pacific Solar Investments Inc. has requested a ROW authorization for the construction, operation, maintenance, and termination of a solar energy generation project. The proposed project would consist of solar photovoltaic panels, including an electrical transmission substation and switchyard facilities. The proposed solar energy project would produce approximately 150 megawatts of electricity, and would be located on approximately 7,500 acres of public lands in the Amargosa Valley, Nye County, Nevada.

The purpose of the public scoping process is to ascertain the relevant issues that will influence the scope of the environmental analysis and guide the process for developing the EIS, including the development of alternatives. The BLM has preliminarily identified the following resource issues: Threatened and endangered species, visual resource impacts, recreation impacts, and socioeconomic effects.

The BLM will use and coordinate the NEPA commenting process to satisfy the public involvement requirements of Section 106 of the National Historic Preservation Act (16 U.S.C. 470f), as provided for in 36 CFR 800.2(d)(3). Native American Tribal consultations will be conducted and tribal concerns, including potential impacts on Indian trust assets, will be given due consideration. Federal, state, and local agencies, along with other stakeholders that may be interested in or affected by the BLM's decision on this project, are invited to participate in the scoping process. Federal, state, and local agencies may request or be asked by the BLM to participate as a cooperating agency.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1501.7.

Patrick Putnam,

Field Manager, Pahrump Field Office.

[FR Doc. E9–29697 Filed 12–11–09; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–R–2009–N206; 40136–1265–0000–S3]

St. Johns National Wildlife Refuge, Brevard County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare a comprehensive conservation plan and environmental assessment; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), intend to prepare a comprehensive conservation plan (CCP) and associated National Environmental Policy Act (NEPA) documents for St. Johns National Wildlife Refuge (NWR). We provide this notice in compliance with our CCP policy to advise other Federal agencies, State agencies, Tribes, and the public of our intentions, and to obtain suggestions and information on the scope of issues to consider in the planning process.

DATES: To ensure consideration, we must receive your written comments by January 13, 2010.

Special mailings, newspaper articles, and other media announcements will be used to inform the public and State and local government agencies of the opportunities for input throughout the planning process. A public scoping meeting will be held early in the CCP development process. The date, time, and place for the meeting will be announced in the local media and on the refuge's Internet web site as follows: *http://www.fws.gov/merrittisland/subrefuges/SJ.html*.

ADDRESSES: Send comments, questions, and requests for more information to: Mr. Bill Miller, Wildlife Biologist, St. Johns NWR CCP, Merritt Island National Wildlife Refuge Complex, P.O. Box 2683, Titusville, FL 32781.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Miller; telephone: 561/715–0023; fax: 321/861–1276; E-mail: *St.JohnsCCP@fws.gov*.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we initiate our process for developing a CCP for St. Johns NWR in Brevard County, Florida. This notice complies with our CCP policy to (1) Advise other Federal and State agencies, Tribes, and the public of our intention to conduct detailed planning on this refuge; and (2) obtain suggestions and information on the scope of issues to consider in the environmental document and during development of the CCP.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act (16 U.S.C. 668dd–668ee), requires us to develop a CCP for each national wildlife refuge. The purpose in developing a CCP is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing to the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Administration Act.

Each unit of the National Wildlife Refuge System is established for specific purposes. We use these purposes as the foundation for developing and prioritizing the management goals and objectives for each refuge within the National Wildlife Refuge System, and to determine how the public can use each refuge. The planning process is a way for us and the public to evaluate management goals and objectives for the best possible conservation approach to this important wildlife habitat, while providing for wildlife-dependent recreation opportunities that are compatible with the refuge's establishing purposes and the mission of the National Wildlife Refuge System.

Our CCP process provides participation opportunities for Tribal, State, and local governments; other agencies; organizations; and the public. At this time we encourage input in the form of issues, concerns, ideas, and suggestions for the future management of St. Johns NWR. The refuge's Web site,

special mailings, newspaper articles, and other media outlets will be used to announce opportunities for input throughout the planning process.

We will conduct the environmental assessment in accordance with the requirements of the National Environmental Policy Act of 1968, as amended (NEPA) (42 U.S.C. 4321 *et seq.*); NEPA regulations (40 CFR parts 1500–1508); other appropriate Federal laws and regulations; and our policies and procedures for compliance with those laws and regulations.

St. Johns NWR, in Brevard County, Florida, is managed as a unit of the Merritt Island National Wildlife Refuge Complex. Other refuges in the Complex include Merritt Island, Lake Wales Ridge, Pelican Island, Archie Carr, and Lake Woodruff. The refuge has two main management units: State Road 50 and Bee Line.

The refuge was established in 1971 to provide protection for threatened and endangered species and native diversity. The primary purpose is to ''conserve fish or wildlife which are listed as endangered species or threatened species * * * (or) plants * * *'' (16 U.S.C. 1534, Endangered Species Act). A secondary purpose provides for native species diversity and applies to specific refuge tracts for the ''conservation, management, and restoration of the fish, wildlife, and plant resources and their habitats for the benefit of present and future generations of Americans'' (16 U.S.C. 668dd(a)(2), National Wildlife Refuge Administration Act).

St. Johns NWR was originally envisioned to provide habitat for threatened and endangered species, specifically for the conservation of the dusky seaside sparrow, first discovered in 1872. Historic flood control projects, including channelization and interbasin diversions, helped drain wetlands for development purposes throughout Florida. These actions significantly altered dusky seaside sparrow habitat throughout the State. In 1967, the dusky seaside sparrow was listed as endangered by the Department of the Interior and by 1979, surveys determined that it had declined to 20 individual males. The last known sighting of this species in the wild was 1980. Despite our efforts to protect and recover the species through regulations, land acquisition, and land management efforts specifically targeting the needs of the dusky seaside sparrow, the species never recovered and was declared extinct in December 1990.

St. Johns NWR was named for and is part of the southern headwaters of the St. Johns River—a river system that runs south to north, eventually flowing into the Atlantic Ocean in northeastern Florida. The refuge is connected through surface and groundwater to the 310-mile-long St. Johns River and plays an important role in the river's health and integrity. Over time, the refuge's hydrologic setting has been altered through various dredge and fill activities both on the refuge (prior to refuge establishment) and off (prior to and after refuge establishment), which today poses considerable management challenges. Off-refuge hydrologic inputs are conveyed from the residentially developed areas surrounding the refuge through channelization and may lead to an overall decrease in refuge water quality. In addition, off-site inputs may alter water quantity, timing, and flows, thus impacting wetland composition and value for the benefit of fish and wildlife. Flood protection provided by existing channels and levees continues to be a valued commodity and is continually in demand as lands surrounding the refuge are converted to residential and commercial settings.

Today, the 6,194-acre St. Johns NWR is home to at least 20 Federal- and State-listed species, including the federally listed wood stork, crested caracara, eastern indigo snake, and American alligator. It is managed to benefit a diversity of species and a wide array of wetland habitats, including spartina marsh, the predominant habitat type found on the refuge. Its wetland marshes provide valuable resources for marshland species, including black rail and other secretive marsh birds. Refuge marshlands are managed primarily through the application of prescribed fire to maintain mosaics of marsh habitat.

Public Availability and Comments

Before including your address, phone number, email address, and/or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: October 30, 2009.

Mark J. Musaus,

Acting Regional Director.

[FR Doc. E9–29639 Filed 12–11–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–R–2009–N210; 20131–1265–2CCP–S3]

Laguna Atascosa National Wildlife Refuge, Cameron and Willacy Counties, TX

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: draft comprehensive conservation plan and environmental assessment; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft comprehensive conservation plan (CCP) and environmental assessment (EA) for the Laguna Atascosa National Wildlife Refuge (Refuge, NWR) for public review and comment. In these documents, we describe alternatives, including our preferred alternative, to manage this Refuge for the 15 years following approval of the final CCP.

DATES: To ensure consideration, please send your written comments by February 12, 2010. We will announce upcoming public meetings in local news media.

ADDRESSES: You may submit comments or requests for copies or more information by any of the following methods. You may request hard copies or a CD–ROM of the documents.

E-mail: mark_sprick@fws.gov. Include ''Laguna Atascosa Draft CCP and EA'' in the subject line of the e-mail.

Fax: Attn: Mark Sprick, Natural Resource Planner, 505–248–6874.

U.S. Mail: Mark Sprick, AICP, Natural Resource Planner, U.S. Fish & Wildlife Service, Division of Planning, P.O. Box 1306, Albuquerque, NM 87103–1306.

In-Person Drop-off: You may drop off comments during regular business hours (8:00 am to 4:30 pm) at 500 Gold Avenue, SW., 4th Floor, Room 4005, Albuquerque, NM 87102.

Internet/Web site: http://www.fws.gov/southwest/refuges/Plan/index.html.

FOR FURTHER INFORMATION CONTACT: Sonny Perez, Wildlife Refuge Manager, Laguna Atascosa NWR, CCP–Project, 22817 Ocelot Road, Los Fresnos, TX 78566, or by phone at 956–748–3607, or

fax at 956–748–3609; or Mark Sprick, AICP, Natural Resource Planner, by phone at 505–248–7411.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for Laguna Atascosa NWR. We started this process through a notice in the **Federal Register** July 19, 2004 (69 FR 43010).

Laguna Atascosa NWR is located in Cameron and Willacy Counties, Texas, and encompasses 97,007 acres of brush lands, coastal prairies, freshwater and brackish pothole wetlands, estuarine wetlands, lomas (clay ridges), wind tidal flats, and barrier island beaches and dunes. Management efforts focus on protecting, enhancing, and restoring Refuge habitats and water management for the benefit of important fish and wildlife resources. The Refuge is a premiere birdwatching destination with 415 recorded bird species, more than any other national wildlife refuge. A total of nine federally listed endangered or threatened species occur within the Refuge, including four species of sea turtles. The largest United States population of endangered ocelot cats is located on the Refuge, making it the center for ocelot conservation and recovery.

Laguna Atascosa NWR was formally established by the Migratory Bird Commission on October 31, 1945, and the first tract forming the Refuge was acquired on March 29, 1946. The purposes of the Refuge are: ''[F]or use as an inviolate sanctuary, or for any other management purpose, for migratory birds'' (Migratory Bird Conservation Act of 1929 (16 U.S.C. 715d), as amended); ''for wildlife conservation purposes if the real property has particular value in carrying out the national migratory bird management program'' (Transfer of Certain Real Property for Wildlife Conservation Purposes Act of 1948 (16 U.S.C. 667b–667d), Public Law 80–537, as amended); ''for the development, advancement, management, conservation and protection of fish and wildlife resources'' (Fish and Wildlife Act of 1956 (16 U.S.C. 742(a)(4), as amended); and ''for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude'' (Fish and Wildlife Act of 1956 (16 U.S.C. 742(b)(1), as amended).

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Administration Act.

Public Outreach

To begin the CCP process, we opened a 60-day comment period on July 19, 2004 (69 FR 43010). We made draft documents and other relevant information available for public review at the Refuge headquarters. In February and June 2004, we held internal preplanning meetings at the Refuge to discuss concerns, issues, and opportunities for the future of the Refuge. We held four ''open-house'' public scoping meetings between February 28 and March 8, 2005, at Raymondville, Brownsville, Harlingen, and South Padre Island to solicit initial public input and involvement during the early stages of CCP development. We also invited the Texas Parks and Wildlife Department (TPWD) to participate as a partner in the planning process. We have considered and evaluated all of these comments received, and have incorporated many of them into the various alternatives we addressed in the draft CCP and the EA.

CCP Alternatives We Are Considering

During the public scoping process with which we started work on this draft CCP, we, other governmental partners, Tribes, and the public raised several issues. Our draft CCP addresses them. A full description of each alternative is in the EA. To address these issues, we developed and evaluated the following alternatives, summarized below.

	A: No-action alternative	B: Proposed action alternative	C: Optimize public-use alternative
Issue 1: Habitat Management Activities.	Biological program and habitat management would continue under existing plans; any expansions would occur opportunistically.	Integrated biological and habitat management efforts with landscape level and ecosystem level plans; emphasis on protection and monitoring of Federal trust species and priority species and their habitats.	Same as No-Action Alternative (Alternative A).
Issue 2: Improvements to public use opportunities.	Limited to current public use under existing plans; Any expansions would occur opportunistically.	Improvement of priority public uses, particularly hunting, fishing and wildlife observation, to meet demand when compatible with wildlife needs and Refuge purposes; expansion of research efforts and dynamic partnerships.	Expand and emphasize all priority public uses, particularly hunting and fishing and access to all Refuge areas to the maximum extent when compatible, based on public comments.

	A: No-action alternative	B: Proposed action alternative	C: Optimize public-use alternative
Issue 3: Staffing, Facilities, and Infrastructure.	Existing staffing (17 permanent positions) and facilities; any additional staff and facility expansions would occur opportunistically.	Addition of 11 staff to existing base; addition of over 6 miles of hike/bike trails; one auto tour route; 2 separate parking areas; new visitor center at Laguna Atascosa Unit. Visitor contact and research station at Bahia Grande.	Base funding and staffing would increase by 4 positions (Outdoor Recreation Planner and 3 Park Rangers); several additional miles of auto tour routes, 7 hike/bike trails and associated parking areas; visitor contact station; all primarily at Bahia Grande.

Public Availability of Documents

In addition to any methods in **ADDRESSES**, you can view or obtain documents at the following locations:

- At the Laguna Atascosa NWR Headquarters Office, 22817 Ocelot Road, Los Fresnos, TX 78566, 18 miles east of Rio Hondo, on Farm-to-Market Road 106, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.
- On our Web site: *http://www.fws.gov/southwest/refuges/Plan/index.html.*
- At the following public libraries:

Library	Address	Phone number
City of Brownsville Public Library	2600 Central Blvd., Brownsville, TX 78520–8824	956–548–1055
Harlingen Public Library	410 '76 Drive, Harlingen, TX 78550	956–427–8841
Laguna Vista Public Library	1300 Palm Blvd., Laguna Vista, TX 78578	956–943–7155
Los Fresnos Public Library	402 W. Ocean, Los Fresnos, TX 78566	956–233–5330
Port Isabel Public Library	213 Yturria St., Port Isabel, TX 78578	956–943–2265
Willacy County/Reber Memorial Library	190 N. 4th. St., Raymondville, TX 78580	956–689–2930
Rio Hondo Public Library	121 N. Arroyo Blvd., Rio Hondo, TX 78583	956–748–3322
San Benito Public Library	101 W. Rose St., San Benito, TX 78586	956–361–3860

Submitting Comments/Issues for Comment

We consider comments substantive if they:

- Question, with reasonable basis, the accuracy of the information in the document;
- Question, with reasonable basis, the adequacy of the EA;
- Present reasonable alternatives other than those presented in the EA; and/or
- Provide new or additional information relevant to the EA.

Next Steps

After this comment period ends, we will analyze the comments and address them in the form of a final CCP.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: November 4, 2009.

Brian A. Millsap,

Acting Regional Director, Region 2.

[FR Doc. E9–29637 Filed 12–11–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW150316]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease, WYW150316, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement of terminated oil and gas lease

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(2), the Bureau of Land Management (BLM) received a petition for reinstatement from G2 Petroleum LLC, Inc. for non-competitive oil and gas lease WYW150316 for land in Fremont County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Julie L. Weaver, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $163 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease WYW150316 effective May 1, 2009, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. The BLM has not issued a valid lease affecting the lands.

Julie L. Weaver,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E9–29695 Filed 12–11–09; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW172439]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease, WYW172439, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement of terminated oil and gas lease

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(2), the Bureau of Land Management (BLM) received a petition for reinstatement from Chesapeake Exploration, LLC, North Finn, LLC, American Oil & Gas Inc., and Khody Land & Minerals Company for competitive oil and gas lease WYW172439 for land in Converse County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Julie L. Weaver, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessees have agreed to the amended lease terms for rentals and royalties at rates of $10 per acre or fraction thereof, per year and 16⅔ percent, respectively. The lessees have paid the required $500 administrative fee and $163 to reimburse the BLM for the cost of this **Federal Register** notice. The lessees have met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188). The BLM is proposing to reinstate lease WYW172439 effective April 1, 2009, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. The BLM has not issued a valid lease affecting the lands.

Julie L. Weaver,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E9–29694 Filed 12–11–09; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

December 7, 2009.

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number)/e-mail: *DOL_PRA_PUBLIC@dol.gov*.

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor—ETA, Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax: 202–395–5806 (these are not toll-free numbers), E-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment and Training Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Title 29 CFR Part 30—Equal Employment Opportunity in Apprenticeship Training.

OMB Control Number: 1205–0224.

Agency Form Number: ETA–9039.

Affected Public: State, Local, and Tribal Governments; Private Sector; and Individuals or Households.

Total Estimated Number of Respondents: 26,778.

Total Estimated Annual Burden Hours: 5,562.

Total Estimated Annual Costs Burden (does not include hour costs): $0.

Description: Title 29 CFR part 30 sets forth policies and procedures to promote equality of opportunity in apprenticeship programs registered with the U.S. Department of Labor and recognized State Apprenticeship Agencies. The Form ETA 9039 is filled out by the complainant to initiate the complaint procedure. For additional information, see related notice published at Volume 74 FR 45878 on September 4, 2009.

Darrin A. King,

Departmental Clearance Officer.

[FR Doc. E9–29604 Filed 12–11–09; 8:45 am]

BILLING CODE 4510–FR–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0038]

Federal Advisory Council on Occupational Safety and Health (FACOSH)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for nominations to serve on FACOSH; renewal of FACOSH charter.

SUMMARY: The Occupational Safety and Health Administration invites interested parties to submit nominations for membership on FACOSH, whose charter the Secretary of Labor renewed on November 6, 2009.

DATES: Nominations for FACOSH must be submitted (postmarked, sent, transmitted, received) by February 12, 2010.

ADDRESSES: You may submit nominations for FACOSH, identified by Docket No. OSHA–2009–0038, by any one of the following methods:

Electronically: Nominations, including attachments, may be submitted electronically at *http://www.regulations.gov*, the Federal eRulemaking Portal. Follow the online instructions for submitting nominations;

Facsimile: If the nomination, including attachments, does not exceed 10 pages, you may fax it to the OSHA Docket Office at (202) 693–1648;

Mail, express delivery, hand delivery, messenger or courier service: Submit three copies of nominations to the OSHA Docket Office, Docket No. OSHA–2009–0038, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (TTY number (877) 889–5627). Deliveries (hand, express mail, messenger and courier service) are accepted during the Department of Labor's and OSHA

Docket Office's normal business hours, 8:15 a.m.–4:45 p.m., e.t.

Instructions: All nominations for FACOSH must include the agency name and docket number for this **Federal Register** notice (Docket No. OSHA–2009–0038). Because of security-related procedures, submitting nominations by regular mail may result in a significant delay in their receipt. Please contact the OSHA Docket Office, at the address above, for information about security procedures for submitting nominations by hand delivery, express delivery, and messenger or courier service. For additional information on submitting nominations, see the ''Public Participation'' heading in the **SUPPLEMENTARY INFORMATION** section.

All submissions in response to this **Federal Register** notice, including personal information provided, will be posted without change at *http://www.regulations.gov*. Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birth dates.

Docket: To read or download submissions in response to this **Federal Register** notice, go to Docket No. OSHA–2009–0038 at *http://www.regulations.gov*. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some documents (*e.g.,* copyrighted material) are not publicly available to read or download through the Web page. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office at the address above.

FOR FURTHER INFORMATION CONTACT: *For press inquiries:* Ms. Jennifer Ashley, OSHA, Office of Communications, U.S. Department of Labor, Room N–3647, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999.

For general information: Mr. Francis Yebesi, OSHA, Office of Federal Agency Programs, U.S. Department of Labor, Room N–3622, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2122; e-mail *ofap@dol.gov*.

SUPPLEMENTARY INFORMATION:

Request for Nominations To Serve on FACOSH

The Assistant Secretary of Labor for Occupational Safety and Health (Assistant Secretary) invites interested parties to submit nominations for membership on FACOSH.

FACOSH is authorized to advise the Secretary of Labor (Secretary) on all matters relating to the occupational safety and health of federal employees (Occupational Safety and Health Act of 1970 (29 U.S.C. 668), 5 U.S.C. 7902, Executive Orders 12196 and 13511). This includes providing advice on how to reduce and keep to a minimum the number of injuries and illnesses in the federal workforce and how to encourage the establishment and maintenance of effective occupational safety and health programs in each Federal agency.

FACOSH is comprised of 16 members, who the Secretary appoints for terms not to exceed three years. The Assistant Secretary, who chairs FACOSH, is seeking nominations both for vacancies that occurred during calendar year (CY) 2009 and that will occur in CY 2010. To provide continuity, the terms of FACOSH members are staggered so that the terms of five to six members expire each year. The Secretary will make five two-year appointments to fill the CY 2009 vacancies, and five three-year appointments to fill the CY 2010 vacancies.

The composition of FACOSH membership and the number of new members to be appointed are:

- Eight members are management representatives from Federal agencies. Five appointments will be made, including two appointments for three-year terms and three appointments for two-year terms; and
- Eight members are representatives of labor organizations representing federal employees. Five appointments will be made, including three appointments for three-year terms and two appointments for two-year terms.

FACOSH members serve at the pleasure of the Secretary unless the member is no longer qualified to serve, resigns, or is removed by the Secretary. The Secretary may appoint FACOSH members to successive terms. FACOSH usually meets between two to six times annually.

Interested parties may nominate one or more qualified persons for membership. Others are invited and encouraged to submit endorsements in support of a nominee. Nominations must include the following information:

- Nominee's resume or curriculum vitae, including contact information, current position, and membership on FACOSH and other relevant organizations;
- Category of membership for which the nominee is qualified to serve;
- A summary of the nominee's background, experience and qualifications for membership;
- Articles or other documents the nominee has authored that indicate their knowledge, experience, and expertise in occupational safety and health, particularly as it pertains to the federal workforce;
- A statement attesting that that the individual is aware of the nomination and has no apparent conflicts of interest that would preclude membership on FACOSH; and
- A written commitment that the nominee will attend and participate in FACOSH meetings regularly throughout the term.

The Secretary will appoint FACOSH members based upon criteria including, but not limited to, the nominee's level of responsibility for occupational safety and health matters involving the federal workforce, experience and competence in occupational safety and health, and willingness and ability to regularly and fully participate in FACOSH meetings. Federal agency management nominees who serve as their agency's Designated Agency Safety and Health Official and labor nominees who are responsible for federal employee occupational safety and health matters within their respective organizations are preferred as management and labor members, respectively.

The information received through the nomination process, along with other relevant sources of information, will assist the Secretary in making appointments to FACOSH. In selecting FACOSH members, the Secretary will consider individuals nominated in response to this **Federal Register** notice, as well as other qualified individuals. OSHA will publish a list of the new FACOSH members in the **Federal Register**.

Public Participation—Submission of Nominations and Access to Docket

Interested parties may submit nominations and supplemental materials by any one of the methods listed in the **ADDRESSES** section. All comments, attachments and other materials must identify the agency name and the OSHA docket number for this **Federal Register** notice (Docket No. OSHA 2009–0038). You may supplement electronic nominations by uploading document files electronically. If, instead, you wish to submit hard copies of any additional material in reference to an electronic submission, you must submit three copies to the OSHA Docket Office following the instructions in the **ADDRESSES** section. The additional material must clearly identify your electronic submission by name, date, and docket number so OSHA can attach it to your nomination.

Because of security-related procedures, the use of regular mail may result in a significant delay in the

receipt of nominations. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger or courier service, please contact the OSHA Docket Office (*see* **ADDRESSES** section).

Submissions in response to this **Federal Register** notice are posted without change at *http://www.regulations.gov*. Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birth dates. Although all submissions are listed in the *http://www.regulations.gov* index, some documents (*e.g.,* copyrighted material) are not publicly available to read or download through the Web page. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

Information on using the *http://www.regulations.gov* Web page to make submissions and to access the docket and exhibits is available at the Web page's Help link. Contact the OSHA Docket Office for information about materials not available through the Web page and for assistance in locating submissions and other documents in the docket.

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov*. This notice, as well as news releases and other relevant information, is available at OSHA's Web page at *http://www.osha.gov*.

Charter Renewal

Section 7902 of Title 5 of the U.S. Code provides that the President may establish, by executive order, a safety council (FACOSH) composed of representatives of Federal agencies and labor organizations representing Federal employees to serve as an advisory body to the Secretary on issues involving the occupational safety and health of the federal workforce. On September 29, 2009, President Barack Obama signed Executive Order 13511 authorizing the continuance of FACOSH for two another years, until September 30, 2011 (5 U.S.C. 7902).

The Federal Advisory Committee Act (FACA) requires that, upon the continuance or renewal of an advisory committee, a new charter be filed (5 U.S.C. App. § 14). Pursuant to FACA and its implementing regulations (41 CFR Part 102–3), on November 6, 2009, the Secretary renewed the FACOSH charter, which expired on September 30, 2009. The new FACOSH charter will expire on September 30, 2011, unless the Secretary terminates it prior to that date.

Authority and Signature: Jordan Barab, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by section 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668), 5 U.S.C. 7902, the Federal Advisory Committee Act (5 U.S.C. App), Executive Order 13511, 29 CFR Part 1960 (Basic Program Elements of for Federal Employee Occupational Safety and Health Programs), 41 CFR Part 102–3, and Secretary of Labor's Order 5–2007 (72 FR 31160).

Signed at Washington, DC, this 8th day of December 2009.

Jordan Barab,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E9–29675 Filed 12–11–09; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of Agency Meeting

TIME AND DATE: 10 a.m., Thursday, December 17, 2009.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed Rule—Part 701 of NCUA's Rules and Regulations, Interpretive Ruling and Policy Statement (IRPS) 09–1, NCUA's Chartering and Field of Membership Policies.

2. Final Rule—Section 701.21(f) of NCUA's Rules and Regulations, Exception to the Maturity Limit on Second Mortgages.

3. Insurance Fund Report.

RECESS: 11:15 a.m.

TIME AND DATE: 11:30 a.m., Thursday, December 17, 2009.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Cedar Point Federal Credit Union's Appeal of Denial by Regional Director of its Request to Convert to Community Charter. Closed pursuant to Exemptions (4) and (8).

2. Consideration of Supervisory Activities. Closed pursuant to Exemptions (8), (9)(A)(ii) and 9(B).

3. Personnel. Closed pursuant to Exemption (2).

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, *Telephone:* 703–518–6304.

Mary Rupp,

Secretary of the Board.

[FR Doc. E9–29832 Filed 12–10–09; 4:15 pm]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0545; Docket No.: 55–62191; License No.: OP–11276–1 (Terminated), IA–09–023]

In the Matter of: Duane Kuhn; Confirmatory Order Modifying License (Effective Immediately)

I

Duane Kuhn (Mr. Kuhn) was previously employed as a Reactor Operator (RO) at Exelon Generation Company, LLC's (Exelon or licensee) Peach Bottom Atomic Power Station (Peach Bottom or facility) located in Delta, Pennsylvania. Mr. Kuhn was the holder of RO License Number OP–11276–1, issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 55. The license authorized Mr. Kuhn to manipulate the controls of the facility. At Exelon's request, the license was terminated on July 31, 2008.

This Confirmatory Order (Order) is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on September 24, 2009. ADR is a process in which a neutral mediator with no decision-making authority assists parties in reaching an agreement on resolving any differences regarding the dispute.

II

The NRC Office of Investigations (OI) initiated an investigation on May 5, 2008 to determine whether Mr. Kuhn deliberately violated NRC requirements by failing to inform Exelon of information required to be reported. Based on the evidence developed during the OI investigation, which was completed on March 4, 2009, the NRC identified an apparent willful violation. The apparent violation involved Mr. Kuhn's failure to inform Exelon of an arrest on his first day back at work following the incident, as required by Exelon's Behavioral Observation Program implementing procedure, the Peach Bottom Physical Security Plan, and 10 CFR 73.20(c). A description of this apparent violation and a factual summary of the results of the

investigation were sent to Mr. Kuhn in an NRC letter dated June 5, 2009.

III

The June 5, 2009 NRC letter informed Mr. Kuhn that the agency was considering escalated enforcement against him for this apparent violation of NRC requirements and offered him the opportunity to either attend a Predecisional Enforcement Conference or to request use of ADR, to resolve this matter. On June 24, 2009, Mr. Kuhn requested the use of ADR and, on September 24, 2009, the NRC and Mr. Kuhn met in an ADR session mediated by a professional mediator, arranged through Cornell University's Scheinman Institute on Conflict Resolution. During that ADR session, a settlement agreement was reached. This Confirmatory Order is the result of that agreement, the elements of which consisted of the following:

1. As a result of the ADR discussion, the NRC and Mr. Kuhn agreed to the following facts: (1) Mr. Kuhn was arrested on October 13, 2007, for driving under the influence (DUI) of alcohol; (2) Mr. Kuhn did not report the arrest to the Exelon-Peach Bottom management until April 29, 2008; and, (3) at the time of the arrest, Mr. Kuhn was required to follow all station procedures under the terms and conditions of his individual reactor operator license.

2. As a result of the facts agreed to in Item 1, the NRC has determined that Mr. Kuhn violated NRC requirements while he was employed as an RO at Peach Bottom. Specifically, the NRC concluded that, contrary to his reactor operator license, NRC regulations, and Exelon's Behavioral Observation Program procedure, Mr. Kuhn willfully failed to report to Exelon-Peach Bottom, for approximately six months, that he had been arrested for driving under the influence of alcohol on October 13, 2007. The NRC considered that this constituted a Severity Level III violation.

3. Mr. Kuhn agreed that he violated Peach Bottom's Physical Security Plan and Exelon's Behavioral Observation Program procedure when he failed to report the arrest (an incident involving alcohol, which, by Exelon procedure required reporting) for approximately six months, and, as a result, violated his individual reactor operator license. Mr. Kuhn contends that his actions were not willful because he did not consider the incident to constitute an arrest until reading the Peach Bottom newsletter article that included a definition of an arrest. Mr. Kuhn maintains that, immediately upon reading the article, he self-reported this incident to Exelon-Peach Bottom management. However, Mr. Kuhn acknowledged that he should have known that he was required to report this incident, because it involved alcohol.

4. Mr. Kuhn noted that he was required to complete a number of actions as a result of an Accelerated Rehabilitative Disposition program for his DUI arrest. These actions included:

a. Relinquishing his driver's license for a period of 60 days;

b. Completing 35 hours of community service;

c. Completing 16 hours of educational classes on the hazards of drinking and specifically the hazards of drinking and driving;

d. Attending a victim impact panel, at which victims and families of victims of alcohol-related driving incidents, described how their lives have been impacted by such events; and

e. Completing 6 weeks of licensee-sponsored counseling, which included attending six sessions of Alcoholics Anonymous meetings.

5. During the ADR mediation session, Mr. Kuhn recognized an opportunity for other licensed operators at Peach Bottom, within Exelon, and in the industry to learn from his violation. Therefore, Mr. Kuhn agreed to author an article in which he relates this incident and what he has learned from it. Within that article, Mr. Kuhn will emphasize the importance of adherence to all requirements, including the requirement of informing facility licensees of all reportable incidents defined within the facility's behavior observation program. Mr. Kuhn also agreed to submit this article to: (1) Exelon for consideration to use in its training program; and (2) the Professional Reactor Operator Society (PROS) and the Institute of Nuclear Power Operations (INPO) requesting their consideration for publication in their respective newsletters.

6. Mr. Kuhn agreed to complete the actions in Item 5 within 90 days after issuance of a NRC Confirmatory Order confirming the commitments agreed to herein; send a letter to the NRC informing the NRC that these actions are complete; and include in the letter to the NRC a copy of the article submitted to Exelon, PROS, and INPO. Mr. Kuhn agreed to send this letter to the NRC within 30 days of completion of the actions stated in Item 5.

7. In light of the actions Mr. Kuhn has committed to take as described in Item 5, the NRC agreed to not take enforcement action against him, other than issuance of a Confirmatory Order confirming the commitments set forth herein. The Confirmatory Order and its transmittal letter will be publicly available in ADAMS, will appear on the NRC ''Significant Enforcement Actions—Individuals'' Web site for a period of one year, and will also be placed in Mr. Kuhn's individual license file.

On November 17, 2009, Mr. Kuhn consented to issuing this Order with the commitments, as described in Section V below. Mr. Kuhn further agreed that this Order is to be effective upon issuance and that he has waived his right to a hearing.

IV

Since Mr. Kuhn has agreed to take additional actions to address NRC concerns, as set forth in Section III, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that Mr. Kuhn's commitments, as set forth in Section III, are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have also determined that public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and Mr. Kuhn's consent, this Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, *it is hereby ordered, effective immediately that Duane Kuhn shall*:

A. Author an article in which he relates this incident and what he has learned from it, emphasizing the importance of adherence to all requirements, including the requirement of informing facility licensees of all reportable incidents defined within the facility's behavior observation program.

B. Submit this article to: (1) Exelon for consideration to use in its training program; and (2) the Professional Reactor Operator Society (PROS) and the Institute of Nuclear Power Operations (INPO) requesting their consideration for publication in their respective newsletters.

C. Complete the above actions within 90 days after issuance of this NRC Confirmatory Order.

D. Send a letter to the NRC informing the NRC that these actions are complete; and include in the letter to the NRC a copy of the article submitted to Exelon, PROS, and INPO within 30 days of completion of the above actions.

The NRC Region I Regional Administrator may relax or rescind, in

writing, any of the above conditions upon demonstration by Mr. Kuhn of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than Mr. Kuhn, may request a hearing within 20 days of its publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov*, or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*. System requirements for accessing the E-Submittal server are detailed in NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html*, by e-mail at *MSHD.Resource@nrc.gov*, or by a toll-free call at (866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If the hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, this Order shall be final 20 days from the date of its publication in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

A request for a hearing shall not stay the immediate effectiveness of this order.

Dated this the 1st day of December 2009.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Regional Administrator.

[FR Doc. E9–29661 Filed 12–11–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0546, Docket Nos.: 50–277/278, License Nos: DPR–44 &, DPR–56, EA–09–007 & EA–09–059]

In the Matter of: Exelon Generating Company, LLC Peach Bottom Atomic Power Station, Confirmatory Order Modifying License (Effective Immediately)

I

Exelon Generating Company, LLC (Exelon or licensee) is the holder of Facility Operating License Nos. DPR–44 and DPR–56 issued by the U.S. Nuclear Regulatory Commission (NRC or agency) pursuant to 10 CFR Part 50. The licenses authorize the operation of Peach Bottom Atomic Power Station, Units 2 and 3 (Peach Bottom or facility), in accordance with conditions specified therein. The facility is located on the licensee's site in Delta, Pennsylvania.

This Confirmatory Order (Order) is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on September 3, 2009. ADR is a process in which a neutral mediator with no decision-making authority assists parties in reaching an agreement on resolving any differences regarding the dispute.

II

Two investigations were initiated by the NRC Office of Investigations (OI) to determine if two former Peach Bottom employees deliberately violated NRC requirements by reporting inaccurate information in one instance, and failing to inform the licensee of information required to be reported in the other. An NRC letter to Exelon on June 5, 2009, transmitted factual summaries of the OI investigations and informed Exelon that, based on the evidence developed during the investigations, OI had substantiated that apparent violations of NRC requirements had occurred as the result of deliberate actions of the former Peach Bottom employees. The first investigation, initiated on February 12, 2008, determined that a former Peach Bottom maintenance supervisor deliberately failed to provide complete and accurate information when completing a Personal History Questionnaire (PHQ) for unescorted access authorization (UAA), and subsequently gained access to the site. PHQs are a means by which licensees, including Exelon, collect information to make determinations about an individual's suitability for unescorted access, as required by 10 CFR 73.56 and the licensee's Physical Security Plan. Specifically, the former maintenance supervisor provided incorrect information regarding the character of his military service, his history of misconduct in the military, and the nature of his discharge from the military. The second investigation, initiated on May 5, 2008, determined that a former Peach Bottom licensed Reactor Operator (RO) deliberately failed to report an arrest/criminal charges in accordance with the site security program procedures for UAA and the Behavioral Observation Program (BOP). Specifically, the RO was arrested and charged with driving under the influence on October 13, 2007, and did not report the incident to Exelon until April 28, 2008.

III

The June 5, 2009, NRC letter informed Exelon that the agency was considering escalated enforcement against it for these apparent violations of NRC requirements and offered Exelon the opportunity to either attend a Predecisional Enforcement Conference or to request use of ADR, to resolve this matter. On June 12, 2009, Exelon requested the use of ADR. On September 3, 2009, the NRC and Exelon met in an ADR session mediated by a professional mediator, arranged through Cornell University's Scheinman Institute on Conflict Resolution. During that ADR session, a settlement agreement was reached. This Confirmatory Order is the result of that agreement, the elements of which consisted of the following:

1. Exelon did not take issue with the NRC preliminary conclusion set forth in the June 5, 2009, letter that two violations occurred and that the actions by the former maintenance supervisor and the former RO regarding the violations were deliberate. The NRC concluded that both violations warranted Severity Level III classification and would normally be subject to a civil penalty in accordance with the NRC Enforcement Policy, because Exelon did not identify one of the two violations. Exelon did not take issue with the NRC conclusion that the violation involving the former RO constitutes a Severity Level III violation. Exelon, however, asserted that the maintenance supervisor applicant was not a fully qualified supervisor when incomplete and inaccurate information was provided. Therefore, this instance would not constitute a Severity Level III violation. The NRC and Exelon agreed to disagree on the severity level of this violation.

2. The NRC acknowledged that Exelon had taken several corrective actions in response to the violations, so as to preclude the occurrence of similar violations in the future. These actions include:

a. Completed Corrective Actions only affecting Peach Bottom:

i. Conducted training module, emphasizing the impact of deliberate misconduct on nuclear safety culture.

ii. Performed common cause evaluation on deliberate misconduct events at PBAPS and implemented resulting corrective actions.

b. Completed Corrective Actions affecting all Exelon operating nuclear facilities:

i. Revised Exelon fleet-wide PHQ to require applicants to review and acknowledge the expectation to provide complete and accurate information and the consequences of providing false, incomplete, or misleading information.

ii. Revised fleet-wide procedure/process for validating military background investigation element.

iii. Implemented fleet-wide safety culture training and workshops.

c. Completed Corrective Actions affecting the nuclear industry:

i. Incorporated lessons learned regarding validation of military background into industry guidance document Nuclear Energy Institute (NEI) 03–01 to strengthen industry process.

ii. Presented lessons learned on military background falsification issue at July 2009 NEI industry Personnel Access Database System (PADS) workshop.

3. Exelon agreed to take additional actions to address the violations, to ensure that the corrective actions identified in Item 2 are effective, and to ensure that lessons learned from these events are extended to the Exelon fleet and to the industry. These actions consist of:

a. Planned Corrective Actions only affecting Peach Bottom:

i. Review special obligations of licensed operators and supervisors in Peach Bottom licensed operator training program, including Peach Bottom operating experience.

ii. Develop an assessment to verify the effectiveness of actions associated with deliberate misconduct training.

iii. Perform Peach Bottom Site Employee Issues Advisory Council (SEIAC) reviews regarding employee conduct issues/concerns, including any apparent trends in these areas; and ensure corporate EIAC emphasizes comparison of site data to identify trends or outliers.

iv. Repeat Peach Bottom training module on deliberate misconduct for new employees and current Peach Bottom personnel in 2010, emphasizing the impact of deliberate misconduct on nuclear safety culture.

b. Planned Corrective Actions affecting all Exelon operating nuclear facilities:

i. Include deliberate misconduct training in the fleet-wide Supervisory Development Program for new supervisors.

ii. Implement Peach Bottom training module fleet-wide, emphasizing the impact of deliberate misconduct on nuclear safety culture. Exelon will also review its current contractor training on deliberate misconduct and add the training module, if necessary.

iii. Provide additional information fleet-wide, to educate the workforce on BOP, Fitness-for-Duty requirements, and Employee Assistance Program services.

c. Planned Corrective Actions affecting the nuclear industry:

i. Provide lessons learned-type article to Professional Reactor Operators Society (PROS) requesting consideration for inclusion in industry newsletter.

ii. Provide lessons learned-type article to NEI requesting consideration for inclusion in its industry newsletter.

iii. Discuss with the Institute of Nuclear Power Operations (INPO) the possibility of incorporating into its supervisor and operations development programs, a module regarding the significance and impact of deliberate misconduct.

4. Exelon agreed to complete the actions applicable only to Peach Bottom after issuance of an NRC Confirmatory Order, by June 30, 2010, and to send the NRC a letter informing the agency that the actions are complete, within 30 days of their completion, to facilitate NRC confirmatory reviews. Exelon also agreed to complete the remaining corrective actions after issuance of the NRC Confirmatory Order, by September 30, 2010, and to send the NRC a letter informing the agency that the actions are complete, within 30 days of their completion, to facilitate NRC confirmatory reviews.

5. In light of the corrective actions that Exelon took as noted in Item 2, as well as the additional actions Exelon committed to as described in Item 3, the NRC agreed to not issue a Notice of Violation or civil penalty for the two violations that are the subject of this ADR.

6. Exelon agreed to issuance of a Confirmatory Order confirming this agreement that describes the two violations and the classification of the violation involving the RO at Severity Level III. The NRC agreed that, for this violation, the date for the escalated enforcement and reactor oversight processes will be retroactive to the date that the individual's employment was terminated (August 17, 2008). In accordance with NRC practice, the Confirmatory Order and the letter forwarding it to Exelon will be publicly available and accompanied by a press release.

On November 19, 2009, Exelon consented to issuing this Order with the commitments, which are described in Section V below. The Licensee further agreed that this Order is to be effective upon issuance and that it has waived its right to a hearing.

IV

Since Exelon has agreed to take additional actions to address NRC concerns, as set forth in Section III, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that Exelon's commitments, as set forth in Section III, are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have also determined that public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and Exelon's consent, this Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, *it is hereby ordered, effective immediately that Exelon shall:*

A. Complete the following actions by June 30, 2010, and send the NRC a letter informing the agency that the actions are complete within 30 days of their completion:

a. Review special obligations of licensed operators and supervisors in Peach Bottom licensed operator training program, including Peach Bottom operating experience.

b. Develop an assessment to verify the effectiveness of actions associated with deliberate misconduct training.

c. Perform Peach Bottom Site Employee Issues Advisory Council (SEIAC) reviews regarding employee conduct issues/concerns, including any apparent trends in these areas; and ensure corporate EIAC emphasizes comparison of site data to identify trends or outliers.

d. Repeat Peach Bottom training module on deliberate misconduct for new employees and current Peach Bottom personnel in 2010, emphasizing the impact of deliberate misconduct on nuclear safety culture.

B. Complete the following actions by September 30, 2010, and send the NRC a letter informing the agency that the actions are complete within 30 days of their completion:

a. Include deliberate misconduct training in the fleet-wide Supervisory Development Program for new supervisors.

b. Implement Peach Bottom training module fleet-wide, emphasizing the impact of deliberate misconduct on nuclear safety culture. Exelon will also review its current contractor training on deliberate misconduct and add the training module, if necessary.

c. Provide additional information fleet-wide, to educate the workforce on BOP, Fitness-for-Duty requirements, and Employee Assistance Program services.

d. Provide lessons learned-type article to Professional Reactor Operators Society (PROS) requesting consideration for inclusion in industry newsletter.

e. Provide lessons learned-type article to NEI requesting consideration for inclusion in its industry newsletter.

f. Discuss with INPO the possibility of incorporating into its supervisor and operations development programs, a module regarding the significance and impact of deliberate misconduct.

The NRC Region I Regional Administrator may relax or rescind, in

writing, any of the above conditions upon demonstration by Exelon of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than Exelon, may request a hearing within 20 days of its publication in the **Federal Register.** Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov,* or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

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Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by e-mail at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If the hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, this Order shall be final 20 days from the date of its publication in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

A request for a hearing shall not stay the immediate effectiveness of this order.

Dated this the 1st day of December 2009.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Regional Administrator.

[FR Doc. E9–29660 Filed 12–11–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–461]

Exelon Generation Company, LLC; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information (SUNSI) for Contention Preparation

The U.S. Nuclear Regulatory Commission (NRC, the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–62 issued to Exelon Generation Company, LLC (the licensee) for operation of the Clinton Power Station, Unit No. 1 (CPS), located in DeWitt County, Illinois.

The proposed amendment would modify License Condition 2.B.(6) and create new License Conditions 1.J and 2.B(7) as part of a pilot program to irradiate Cobalt (Co)-59 targets to produce Co-60, for the CPS. The licensee also requests an amendment to Appendix A, Technical Specifications (TS), of the CPS Facility Operating License, which would modify TS 4.2.1, ''Fuel Assemblies,'' to describe the isotope test assemblies being used. The amendment application dated June 26, 2009, contains sensitive unclassified non-safeguards information (SUNSI). The amendment application is supplemented by letters dated November 4, 2009 (ADAMS Package No. ML093100316), November 17, 2009 (ADAMS Accession No. ML093210561), and November 20, 2009 (ADAMS Accession No. ML093280028).

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to the license conditions provide clarification and do not impact plant operation in any way. The handling of byproduct material (*i.e.,* Co-60) will continue to be done in accordance with the requirements of 10 CFR 30 and the requirements of the CPS Facility Operating License. The proposed change to TS 4.2.1 also provides clarification and additional description of the proposed ITAs to be used in the CPS core. These changes provide clarification and do not involve an increase in the probability or consequences of an accident previously evaluated.

The use of the GE14i ITAs, has been evaluated for impact on the previously evaluated transients and design basis accidents for CPS. GE-Hitachi report NEDC–33505P, ''Safety Analysis Report to Support Introduction of GE14i Isotope Test Assemblies (ITAs) in Clinton Power Station,'' dated June 2009, documents the results of the analyses completed to demonstrate the impact on operation following introduction of the ITAs in the CPS core. The use of these ITAs does not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, and configuration or the manner in which the plant is operated and maintained. The Cycle 13 (*i.e.,* the first cycle of operation with the GE14i assembly) core, and subsequent cores, will be designed so that the ITAs will be placed in non-limiting locations with respect to thermal limit margins and shutdown margins. The ITAs do not adversely affect the ability of any structures, systems or components (SSCs) to perform their intended safety function to mitigate the consequences of an initiating event within the assumed acceptance limits.

In addition to evaluation of the impact to operation with the introduction of the GE14i assemblies, EGC has also evaluated the effects of these assemblies on post-irradiation conditions. The additional heat from the Co-60 decay is insignificant when compared to the total heat from a normal refueling discharge. The small amount of extra heat added by the cobalt isotope rods poses no additional risk of spent fuel pool (SFP) local boiling over that was previously analyzed. The maximum incident radiation due to an irradiated GE14i bundle placed one foot from the spent fuel pool walls is in excess of the radiation that would result in significant gamma heating of the concrete. However, analysis has demonstrated that at four feet, the energy deposition rate is well below that required to cause significant concrete heating. CPS procedures exist to guide placement of irradiated fuel bundles in the SFP to avoid gamma heating of the wall concrete. These procedures will be modified to specify that the irradiated GE14i bundles be stored at least four feet from the pool walls. With the four foot distance requirement in effect, there is no limitation on the amount of time an irradiated GE14i bundle may remain in the pool.

Handling of the licensed transfer casks will be in accordance with the guidance in NUREG 0612, ''Control of Heavy Loads at Nuclear Power Plants,'' using the Fuel Building Crane. These precautions will support safe movement of the casks within the Fuel Building.

The consequences of a previously analyzed event are dependent on the initial conditions assumed in the analysis, the availability and successful functioning of equipment assumed to operate in response to the analyzed event, and the setpoints at which these actions are initiated. The consequences of a previously evaluated accident are not significantly increased by the proposed change. As documented in NEDC–33505P, the proposed change does not affect the performance of any equipment credited to mitigate the radiological consequences of an accident. Evaluation of operation with the GE14i assemblies in the CPS core, demonstrated that the licensing basis radiological analyses are not impacted by the introduction of eight GE14i assemblies at CPS. This includes the analyses done for transients and design basis accident events.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed revision to the CPS license conditions and TS 4.2.1 will not introduce

any new or modified equipment since these changes are intended to provide clarification only. These clarifications will not result in operation of the facility in a different way than currently operated.

While the proposed ITA program does result in the introduction of several modified fuel assemblies (*i.e.,* the GE14i assembly), these assemblies are essentially the same as the GE14 assemblies currently in use in the CPS core. The only difference being the use of a number of isotope rods in place of fuel rods. The GE14i assembly was designed for mechanical, nuclear, and thermal-hydraulic compatibility with the GE14 fuel design. The details of the design differences between the GE14 and GE14i are documented in NEDC–33505P. Use of the proposed ITAs does not involve the addition or modification of any plant equipment other than the assemblies modified to include the cobalt target rods. Also, use of the proposed ITAs will not alter the design configuration or method of operation of plant equipment beyond its normal functional capabilities. The ITA program does not create any new credible failure mechanisms, malfunctions or accident initiators.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change to the CPS operating license conditions are intended to provide clarification as to how the generation of byproduct material in the CPS reactor core meets the requirements of 10 CFR Part 30. The proposed change to TS 4.2.1 also provides clarification and additional description of the proposed ITAs to be used in the CPS core. These proposed changes would not affect the design or operation of any equipment important to safety. In addition, since the proposed changes to the license conditions and TS provide clarification only, these changes do not affect the results of any safety calculations.

Cycle specific analyses will be performed for CPS Reload 12 Cycle 13 to establish fuel operating limits for the ITAs that assure compliance with regulatory limits. Results of these analyses will be documented in the CPS Reload 12 Cycle 13 Supplemental Reload Licensing Report. Furthermore, licensing analyses will be performed for the ITAs for each cycle of their operation, wherein the effect of the ITAs is considered for each of the appropriate licensing events and anticipated operational occurrences (AOOs) to establish the appropriate reactor thermal limits for operation.

The proposed introduction of the ITAs has no impact on equipment design or fundamental operation, other than the modifications made to the fuel assembly as part of the program. There are no changes being made to safety limits or safety system allowable values that would adversely affect plant safety as a result of the proposed ITAs. The performance of the systems important to safety is not significantly affected by the use of the proposed ITAs. The margin of safety can be affected by the thermal limits existing at the time of the postulated accident; however, the ITA design has been evaluated and demonstrated to have no significant effect on the calculated thermal limits as described above. The proposed change does not affect safety analysis assumptions or initial conditions and therefore, the margin of safety in the original safety analyses is maintained.

As documented above, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking and Directives Branch, TWB–05–B01M, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be faxed to the Chief, Rulemaking and Directives Branch at 301–492–3446. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In

addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

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service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

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Petitions for leave to intervene must be filed no later than 60 days from December 14, 2009. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

For further details with respect to this license amendment application, see the application for amendment dated June 24, 2009, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*

Attorney for Licensee: Mr. Bradley J. Fewell, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information (SUNSI) for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1);

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention;

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. *Filing of Contentions.* Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. *Review of Denials of Access.*

(1) If the request for access to SUNSI is denied by the NRC staff either after a determination on standing and need for access, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E–Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

H. *Review of Grants of Access.* A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 9th day of December 2009.

For the Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. E9–29672 Filed 12–11–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0556]

Draft Regulatory Guide: Issuance, Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance and Availability of Draft Regulatory Guide, DG–8032.

FOR FURTHER INFORMATION CONTACT: Mohammad S. Saba, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 251–7558 or e-mail to *Mohammad.Saba@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft guide in the agency's ''Regulatory Guide'' series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide (DG), entitled, ''Planned Special Exposures,'' is temporarily identified by its task number, DG–8032, which should be mentioned in all related correspondence. DG–8032 is a proposed Revision 1 of Regulatory Guide 8.35, dated June 1992.

In the revised Title 10, of the *Code of Federal Regulations,* Part 20, ''Standards for Protection Against Radiation'' (10 CFR Part 20), (10 CFR 20.1201(b) and 10 CFR 20.1206, ''Planned Special Exposures,'' provide the conditions and limits for planned special exposures (PSEs) of adult workers (*i.e.,* doses in addition to and accounted for separately from the doses received under the limits specified in 10 CFR 20.1201, ''Occupational Dose Limits for Adults.'' In addition, 10 CFR 20.2104(b) and 10 CFR 20.2104(e)(2) specify the requirements for obtaining prior occupational dose information, and 10 CFR 20.2105, ''Records of Planned Special Exposures,'' and 10 CFR 20.2106, ''Records of Individual Monitoring Results,'' specify the requirements for exposure and monitoring records applicable to PSEs. The requirements for reporting PSEs appear in 10 CFR 20.2202(e) and in 10 CFR 20.2204, ''Reports of Planned Special Exposures.''

This regulatory guide provides guidance on the conditions and prerequisites for permitting PSEs allowed by 10 CFR Part 20, the associated specific monitoring and reporting requirements, and examples of acceptable means of satisfying these requirements.

II. Further Information

ADDRESSES: You may submit comments by any one of the following methods. Please include Docket ID NRC–2009–0556 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site Regulations.gov. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2009–0556. Address questions about NRC dockets to Carol Gallagher 301–492–3668; e-mail *Carol.Gallagher@nrc.gov*.

Mail comments to: Michael T. Lesar, Chief, Rulemaking and Directives Branch (RDB), Division of Administrative Services, Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to RDB at (301) 492–3446.

You can access publicly available documents related to this notice using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Public File Area O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov*.

Federal Rulemaking Web site: Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID: NRC–2009–0556.

Requests for technical information about DG–8032 may be directed to the NRC contact, Mohammad S. Saba at (301) 251–7558 or e-mail to *Mohammad.Saba@nrc.gov*.

Comments would be most helpful if received by March 11, 2010. Comments received after that date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Electronic copies of DG–8032 are available through the NRC's public Web site under Draft Regulatory Guides in the ''Regulatory Guides'' collection of the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections/*. Electronic copies are also available in ADAMS (*http://www.nrc.gov/reading-rm/adams.html*), under Accession No. ML09177035.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR) located at 11555 Rockville Pike, Rockville, Maryland. The PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4205, by fax at (301) 415–3548, and by e-mail to *pdr.resource@nrc.gov*.

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

Dated at Rockville, Maryland, this 7th day of December 2009.

For the Nuclear Regulatory Commission.

Harriet Karagiannis,

Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. E9–29655 Filed 12–11–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[EA–09–205; NRC–2009–0544]

In the Matter of Licensees Authorized To Possess Radioactive Material Quantities of Concern; Order Imposing Fingerprinting and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Material (Effective Immediately)

I

The Licensees identified in Attachment A to the Increased Controls (IC) Order (EA–09–204) hold licenses issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) in accordance with the Atomic Energy Act (AEA) of 1954, as amended, and which may possess items containing radioactive materials in quantities of concern.

Section 149 of the AEA, as amended by Section 652 of the Energy Policy Act of 2005, requires fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records checks for ''any individual who is permitted unescorted access to radioactive materials or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and

security as to warrant fingerprinting and background checks.'' Pending the completion of rulemaking, the NRC is issuing this Order to implement these requirements, of the AEA and the Energy Policy Act of 2005, because a deliberate malevolent act by an individual with unescorted access to radioactive materials quantities of concern has the potential to result in significant adverse impacts to the public health and safety.

These additional requirements do not apply to individuals or classes of individuals who, under 10 CFR 73.61, are relieved from the fingerprinting, identification, and records check requirements of Section 149 of the AEA, as amended by Section 652 of the Energy Policy Act of 2005. In addition, because the individuals listed in Attachment 1, Paragraph 3 to this Order have already satisfied the fingerprinting, identification, and records check requirements, these individuals do not need to take additional action in response to this Order.

II

The IC Order (EA–09–204) requires Licensees to increase control over their sources in order to prevent unintended radiation exposure and malicious acts. One specific requirement imposed by the IC Order is that each Licensee conduct background checks to determine the trustworthiness and reliability of individuals needing unescorted access to radioactive materials. The Commission has determined that radioactive materials possessed by the licensees listed in Attachment A of the IC Order are of such significance to public health and safety as to warrant fingerprinting and FBI identification and criminal history records checks for such persons. Therefore, in accordance with Section 149 of the AEA and the Energy Policy Act of 2005, the Commission is imposing the requirements set forth in this Order on all licensees identified in Attachment A of the IC Order, which are currently authorized to possess radioactive materials in quantities of concern. These requirements include the specific fingerprinting and criminal history records check requirements specified in Attachment 1 to this Order. All requirements will remain in effect until the Commission determines otherwise.

Because of the potentially significant adverse impacts associated with a deliberate malevolent act by an individual with unescorted access to radioactive materials quantities of concern, under 10 CFR 2.202, the NRC finds that the public health and safety require that this Order be effective immediately.

III

Accordingly, pursuant to Sections 81, 149, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR Parts 30, 33, 40 and 50, *it is hereby ordered, effective immediately, that all licensees identified in attachment 1 to this order shall comply with the requirements of this order as follows:*

A

1. The Licensee shall, within ninety (90) days of the date of this Order, establish and maintain a fingerprinting program that meets the requirements of Attachment 1 of this Order for individuals that require unescorted access to certain radioactive materials.

2. Within twenty five (25) days of the date of this Order, the Licensee shall provide under oath or affirmation, a certification that the Trustworthiness and Reliability (T&R) Official (an individual with the responsibility to determine the trustworthiness and reliability of another individual requiring unescorted access to the radioactive materials identified in Table 1 of Attachment B of the IC Order) is deemed trustworthy and reliable by the Licensee as required in paragraph B.2 of this Order.

3. The Licensee shall, in writing, within twenty five (25) days of the date of this Order, notify the Commission, (1) If it is unable to comply with any of the requirements described in this Order or in Attachment 1 to this Order, (2) if compliance with any of the requirements is unnecessary in its specific circumstances, or (3) if implementation of any of the requirements would cause the Licensee to be in violation of the provisions of any Commission regulation or its license. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.

4. The Licensee shall complete implementation of the program established in accordance with paragraph A.1 within ninety (90) days of the date of this Order. In addition to the notifications in paragraphs 2 and 3 above, the Licensee shall notify the Commission within twenty-five (25) days after they have achieved full compliance with the requirements described in Attachment 1 to this Order. If within ninety (90) days of the date of this Order, the Licensee is unable, due to circumstances beyond its control, to complete implementation of this Order, the Licensee shall submit a written request to the Commission explaining the need for an extension of time to implement the requirements. The request shall provide the Licensee's justification for seeking more time to comply with the requirements of this Order.

Licensees shall notify the NRC's Headquarters Operations Office at 301–816–5100 within 24 hours if the results from an FBI identification and criminal history records check indicate that an individual is identified on the FBI's Terrorist Screening Data Base.

B

1. Except as provided in paragraph E for individuals who are currently approved for unescorted access, the Licensee shall grant access to radioactive material in Attachment B to the IC Order in accordance with the requirements of IC.1. of the IC Order and the requirements of this Order.

2. The T&R Official, if he/she does not require unescorted access, must be deemed trustworthy and reliable by the Licensee in accordance with the requirements of IC.1. of the IC Order before making a determination regarding the trustworthiness and reliability of another individual. If the T&R Official requires unescorted access, the Licensee must consider the results of fingerprinting and the review of an FBI identification and criminal history records check as a component in approving a T&R Official.

C. Prior to requesting fingerprints from any individual, the Licensee shall provide a copy of this Order to that person.

D. Upon receipt of the results of FBI identification and criminal history records checks, the Licensee shall control such information as specified in the ''Protection of Information'' section of Attachment 1 of this Order and in requirement IC.5 of the IC Order.

E. The Licensee shall make determinations on continued unescorted access for persons currently granted unescorted access, within ninety (90) days of the date of this Order based upon the results of the fingerprinting and FBI identification and criminal history records check. The Licensee may allow any individual who currently has unescorted access to certain radioactive materials in accordance with the IC Order to continue to have unescorted access, pending a decision by the T&R Official. After ninety (90) days of the date of this Order, no individual may have unescorted access to radioactive materials without a determination by the T&R Official (based upon fingerprinting, an FBI identification and

criminal history records check and a previous trustworthiness and reliability determination) that the individual may have unescorted access to such materials.

F. These requirements do not apply to radioactive material contained in spent nuclear fuel.

Licensee responses to A.1, A.2., A.3. and A.4., above shall be submitted to the Director, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Licensee responses shall be marked as ''Withhold Under 10 CFR 2.390.''

The Director, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, may, in writing, relax or rescind any of the above conditions upon demonstration of good cause by the Licensee.

IV

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order within twenty five (25) days of the date of this Order. In addition, the Licensee and any other person adversely affected by this Order may request a hearing of this Order within twenty five (25) days of the date of the Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made, in writing, to the Director, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

The answer may consent to this Order. If the answer includes a request for a hearing, it shall, under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee relies and the reasons as to why the Order should not have been issued. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule, (72 FR 49139, Aug. 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov*, or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public website at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the website, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's on-line, web-based submission form. In order to serve documents through EIE, users will be required to install a web browser plug-in from the NRC Web site. Further information on the web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta-System Help Desk through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by e-mail at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The NRC Meta-System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery

service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their works.

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee may, in addition to requesting a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty-five (25) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 23rd day of November 2009.

For the Nuclear Regulatory Commission.

Larry W. Camper,

Director, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

Attachment A:—Increased Controls Licensee List

EA–09–204

Dresden 1

Exelon Generation Company, LLC
License No.: DPR–2
Docket No. : 050–00010

Fermi 1

Detroit Edison Company
License No.: DPR–9
Docket No. : 050–00016

GE BWR

General Electric Company
License No.: DPR–1
Docket No. : 050–00018

Humboldt 3

Pacific Gas and Electric Company
License No.: DPR–7
Docket No.: 050–00133

Indian Point-1

Entergy Nuclear Operations
License No.: DPR–5
Docket No.: 050–00003

Lacrosse

Dairyland Power Cooperative
License No.: DPR–45
Docket No.: 050–00409

Millstone 1

Dominion Nuclear Connecticut, Inc.
License No.: DPR–21
Docket No.: 050–00245

Nuclear Ship Savannah

U. S. Department of Transportation
License No.: NS–1
Docket No.: 050–00238

Peach Bottom 1

Exelon Nuclear
License No.: DPR–12
Docket No.: 050–00171

Rancho Seco

Sacramento Municipal Utility District
License No.: DPR–54
Docket No.: 050–00312

San Onofre 1

Southern California Edison
License No.: DPR–13
Docket No.: 050–00206

TMI 2

FirstEnergy Corporation
License No.: DPR–73
Docket No.: 050–00320

Zion 1 & 2

Exelon Generation Company, LLC
License No.: DPR–39 and DPR–48
Docket No.: 050–00295 and 050–00304

Attachment 1: Specific Requirements Pertaining to Fingerprinting and Criminal History Records Checks

1. Each Licensee subject to the provisions of this attachment shall fingerprint each individual who is seeking or permitted unescorted access to risk significant radioactive materials equal to or greater than the quantities listed in Attachment B to the IC Order (EA–09–204). The Licensee shall review and use the information received from the Federal Bureau of Investigation (FBI) identification and criminal history records check and ensure that the provisions contained in the subject Order and this attachment are satisfied.

2. The Licensee shall notify each affected individual that the fingerprints will be used to secure a review of his/her criminal history record and inform the individual of the procedures for revising the record or including an explanation in the record, as specified in the ''Right to Correct and Complete Information'' section of this attachment.

3. Fingerprints for unescorted access need not be taken if an employed individual (*e.g.,* a Licensee employee, contractor, manufacturer, or supplier) is relieved from the fingerprinting requirement by 10 CFR 73.61, or any person who has been favorably-decided by a U.S. Government program involving fingerprinting and an FBI identification and criminal history records check (*e.g.* National Agency Check, Transportation Worker Identification Credentials in accordance with 49 CFR Part 1572, Bureau of Alcohol Tobacco Firearms and Explosives background checks and clearances in accordance with 27 CFR Part

555, Health and Human Services security risk assessments for possession and use of select agents and toxins in accordance with 42 CFR Part 73, Hazardous Material security threat assessment for hazardous material endorsement to commercial drivers license in accordance with 49 CFR Part 1572, Customs and Border Patrol's Free and Secure Trade Program [1]) within the last five (5) calendar years, or any person who has an active federal security clearance (provided in the latter two cases that they make available the appropriate documentation [2]). Written confirmation from the Agency/employer which granted the federal security clearance or reviewed the FBI criminal history records results based upon a fingerprint identification check must be provided. The Licensee must retain this documentation for a period of three (3) years from the date the individual no longer requires unescorted access to certain radioactive material associated with the Licensee's activities.

4. All fingerprints obtained by the Licensee pursuant to this Order must be submitted to the Commission for transmission to the FBI. Additionally, the Licensee shall submit a certification of the trustworthiness and reliability of the T&R Official as determined in accordance with paragraph B.2 of this Order. The Licensee shall review the information received from the FBI and consider it, in conjunction with the trustworthiness and reliability requirements of the IC Order, in making a determination whether to grant unescorted access to certain radioactive materials.

5. The Licensee shall use any information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access to risk significant radioactive materials equal to or greater than the quantities listed in Attachment B.

6. The Licensee shall document the basis for its determination whether to grant, or continue to allow unescorted access to risk significant radioactive materials equal to or greater than the quantities listed in Attachment B.

Prohibitions

A Licensee shall not base a final determination to deny an individual unescorted access to certain radioactive material solely on the basis of information received from the FBI involving: an arrest more than one (1) year old for which there is no information of the disposition of the case, or an arrest that resulted in dismissal of the charge or an acquittal.

A Licensee shall not use information received from a criminal history check obtained pursuant to this Order in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall the Licensee use the information in any way which would discriminate among individuals on the basis of race, religion, national origin, sex, or age.

Right To Correct and Complete Information

Prior to any final adverse determination, the Licensee shall make available to the individual the contents of any criminal records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the Licensee for a period of one (1) year from the date of the notification.

If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (*i.e.*, law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod.D–2, 1000 Custer Hollow Road, Clarksburg, WV 26306 (as set forth in 28 CFR Part 16.30 through 16.34). In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged entry. Upon receipt of an Official communication directly from the agency that contributed the original information, the FBI CJIS Division makes any changes necessary in accordance with the information supplied by that agency. The Licensee must provide at least ten (10) days for an individual to initiate an action challenging the results of an FBI identification and criminal history records check after the record is made available for his/her review. The Licensee may make a final unescorted access to certain radioactive material determination based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on unescorted access to certain radioactive material, the Licensee shall provide the individual its documented basis for denial. Unescorted access to certain radioactive material shall not be granted to an individual during the review process.

Protection of Information

1. Each Licensee who obtains a criminal history record on an individual pursuant to this Order shall establish and maintain a system of files and procedures for protecting the record and the personal information from unauthorized disclosure.

2. The Licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to access the information in performing assigned duties in the process of determining unescorted access to certain radioactive material. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have a need-to-know.

3. The personal information obtained on an individual from a criminal history record check may be transferred to another Licensee if the Licensee holding the criminal history record check receives the individual's written request to re-disseminate the information contained in his/her file, and the gaining Licensee verifies information such as the individual's name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.

4. The Licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

5. The Licensee shall retain all fingerprint and criminal history records from the FBI, or a copy if the individual's file has been transferred, for three (3) years after termination of employment or determination of unescorted access to certain radioactive material (whether unescorted access was approved or denied). After the required three (3) year period, these documents shall be destroyed by a method that will prevent reconstruction of the information in whole or in part.

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BILLING CODE 7590–01–P

[1] The FAST program is a cooperative effort between the Bureau of Customs and Border Patrol and the governments of Canada and Mexico to coordinate processes for the clearance of commercial shipments at the U.S.-Canada and U.S.-Mexico borders. Participants in the FAST program, which requires successful completion of a background records check, may receive expedited entrance privileges at the northern and southern borders.

[2] This documentation must allow the T&R Official to verify that the individual has fulfilled the unescorted access requirements of Section 149 of the AEA by submitting to fingerprinting and an FBI identification and criminal history records check.

NUCLEAR REGULATORY COMMISSION

[EA–09–204; NRC–2009–0543]

In the Matter of: Licensees Authorized To Possess Radioactive Material Quantities of Concern; Order Imposing Increased Controls (Effective Immediately)

I

The Licensees identified in Attachment A to this Order hold licenses issued in accordance with the Atomic Energy Act of 1954 by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing them to possess certain quantities of radioactive material of concern. Under NRC regulations, Licensees must take measures to ensure the security and control of such material. Among these regulations, 10 CFR 20.1801 requires Licensees to secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas, while 10 CFR 20.1802 requires Licensees to control and maintain constant surveillance of licensed material that is in a controlled

or unrestricted area and that is not in storage.

II

Prior to the terrorist attacks of September 11, 2001 (9/11), several national and international efforts were underway to address the potentially significant health and safety hazards posed by uncontrolled sources. These efforts recognized the need for increased control of high-risk radioactive materials to prevent both inadvertent and intentional unauthorized access, primarily due to the potential health and safety hazards posed by the uncontrolled material. Following 9/11, it was recognized that these efforts should also include a heightened awareness and focus on the need to prevent intentional unauthorized access due to potential malicious acts. These efforts, such as the International Atomic Energy Agency Code of Conduct on the Safety and Security of Radioactive Sources concerning Category 1 and 2 sources, sought to increase the control over sources in order to prevent both unintended radiation exposure and malicious acts.

A Licensee's loss of control of high-risk radioactive sources, whether it be inadvertent or through a deliberate act, has the potential to result in significant adverse health impacts and could reasonably constitute a threat to the public health and safety. For this reason, the Commission has determined that Licensees must implement certain additional controls in order to ensure adequate protection of, and minimize danger to, public health and safety. These additional controls supplement existing requirements in the NRC's regulations, including the requirements in 10 CFR 20.1801 and 10 CFR 20.1802. The Commission is imposing the requirements set forth in Attachment C on decommissioning reactor Licensees who possess, or who plan to acquire in the near future, radionuclides of concern at or above threshold limits identified in Table 1. These requirements will remain in effect until the Commission modifies its regulations to reflect increased controls.

The Commission recognizes that Licensees may have already initiated many controls set forth in Attachment C to this Order in response to previously issued advisories or on their own initiative. The Commission also recognizes that some controls may not be possible or necessary at some sites, and that certain controls may need to be tailored to accommodate the Licensees' specific circumstances, achieve the intended objectives, and avoid any unforeseen adverse effect on the safe use and storage of licensed material.

To provide assurance that the Licensees are implementing prudent measures to achieve a consistent level of control, all Licensees who hold licenses issued by the NRC authorizing possession of radioactive material quantities of concern, as listed in Table 1, ''Radionuclides of Concern'' (Attachment B, Table 1), shall implement the requirements identified in Attachment C to this Order. In addition, pursuant to 10 CFR 2.202, because of the potentially significant adverse health impacts associated with failure to control high-risk radioactive sources, the NRC finds that the public health, safety, and interest require that this Order be effective immediately.

III

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations, including regulations in 10 CFR Parts 2, 20, 30, 33, 40 and 50, *IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT ALL LICENSEES IDENTIFIED IN ATTACHMENT A TO THIS ORDER SHALL COMPLY WITH THE REQUIREMENTS OF THIS ORDER AS FOLLOWS:*

A. The Licensee shall comply with the requirements described in Attachment C to this Order. The Licensee shall complete implementation within ninety (90) days of the date of this Order, or the first day that radionuclides of concern at or above threshold limits, identified in Table 1, are possessed, whichever occurs later.

B.1. The Licensee shall in writing, within twenty-five (25) days of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in Attachment C, (2) if compliance with any of the requirements is unnecessary in its specific circumstances, or (3) if implementation of any of the requirements would cause the Licensee to be in violation of the provisions of any Commission regulation or its license. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.

B.2. If the Licensee considers that implementation of any of the requirements described in Attachment C to this Order would adversely impact safe operation of the facility, the Licensee must notify the Commission, in writing, within twenty-five (25) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment C requirement in question, or a schedule for modifying the facility to address the adverse safety condition. If neither approach is appropriate, the Licensee must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B.1.

C.1. The Licensee shall, within twenty-five (25) days of the date of this Order, submit to the Commission a schedule for completion of each requirement described in Attachment C.

C.2. The Licensee shall report to the Commission when it has achieved full compliance with the requirements described in Attachment C.

D. Notwithstanding any provisions of the Commission's regulations to the contrary, all measures implemented or actions taken in response to this Order shall be maintained until the Commission modifies its regulations to reflect increased controls.

E. These requirements do not apply to radioactive material contained in spent nuclear fuel.

Licensee responses to Conditions B.1, B.2, C.1, and C.2 above shall be submitted to the Director, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. In addition, Licensee's responses shall be marked as ''Withhold From Public Disclosure Under 10 CFR 2.390.''

The Director, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Programs, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

IV

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty five (25) days of the date of this Order. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d). Where good cause is shown, consideration will be given to extending the time to request a hearing.

A request for extension of time in which to submit an answer must be made in writing to the Director, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Licensee if the answer is by a person other than the Licensee. Because of possible disruptions in delivery of mail to United States Government offices, it is requested that answers be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 and also to the Office of the General Counsel either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov*.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule, (72 FR 49139, Aug. 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov*, or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*. System requirements for accessing the E-Submittal server are detailed in NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's on-line, web-based submission form. In order to serve documents through EIE, users will be required to install a web browser plug-in from the NRC Web site. Further information on the web-based submission form, including the installation of the web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta-System Help Desk through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html*, by e-mail at *MSHD.Resource@nrc.gov*, or by a toll-free call at (866) 672–7640. The NRC Meta-System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First-class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's

electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as Social Security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty-five (25) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received.

AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

Dated this 23rd day of November 2009.

For the Nuclear Regulatory Commission.

Larry W. Camper,

Director, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

Attachment A—Increased Controls Licensee List

EA–09–204

Dresden 1

Exelon Generation Company, LLC
License No.: DPR–2
Docket No.: 050–00010

Fermi 1

Detroit Edison Company
License No.: DPR–9
Docket No.: 050–00016

GE BWR

General Electric Company
License No.: DPR–1
Docket No.: 050–00018

Humboldt 3

Pacific Gas and Electric Company
License No.: DPR–7
Docket No.: 050–00133

Indian Point-1

Entergy Nuclear Operations
License No.: DPR–5
Docket No.: 050–00003

Lacrosse

Dairyland Power Cooperative
License No.: DPR–45
Docket No.: 050–00409

Millstone 1

Dominion Nuclear Connecticut, Inc.
License No.: DPR–21
Docket No.: 050–00245

Nuclear Ship Savannah

U.S. Department of Transportation
License No.: NS–1
Docket No.: 050–00238

Peach Bottom 1

Exelon Nuclear
License No.: DPR–12
Docket No.: 050–00171

Rancho Seco

Sacramento Municipal Utility District
License No.: DPR–54
Docket No.: 050–00312

San Onofre 1

Southern California Edison
License No.: DPR–13
Docket No.: 050–00206

TMI 2

FirstEnergy Corporation
License No.: DPR–73
Docket No.: 050–00320

Zion 1 & 2

Exelon Generation Company, LLC
License No.: DPR–39 and DPR–48
Docket No.: 050–00295 and 050–00304

Attachment B

TABLE 1—RADIONUCLIDES OF CONCERN

Radionuclide	Quantity of concern[1] (TBq)	Quantity of concern[2] (Ci)
Am–241	0.6	16
Am–241/Be	0.6	16
Cf–252	0.2	5.4
Cm–244	0.5	14
Co–60	0.3	8.1
Cs–137	1	27
Gd–153	10	270
Ir–192	0.8	22
Pm–147	400	11,000
Pu–238	0.6	16
Pu–239/Be	0.6	16
Ra–226	0.4	11
Se–75	2	54
Sr–90 (Y–90)	10	270
Tm–170	200	5,400
Yb–169	3	81
Combinations of radioactive materials listed above[3]	See Footnote Below[4]	

[1] The aggregate activity of multiple, collocated sources of the same radionuclide should be included when the total activity equals or exceeds the quantity of concern.

[2] The primary values used for compliance with this Order are TBq. The curie (Ci) values are rounded to two significant figures for informational purposes only.

[3] Radioactive materials are to be considered aggregated or collocated if breaching a common physical security barrier (*e.g.*, a locked door at the entrance to a storage room) would allow access to the radioactive material or devices containing the radioactive material.

[4] If several radionuclides are aggregated, the sum of the ratios of the activity of each source, i of radionuclide, n, $A_{(i,n)}$, to the quantity of concern for radionuclide n, $Q_{(n)}$, listed for that radionuclide equals or exceeds one. [(aggregated source activity for radionuclide A) ÷ (quantity of concern for radionuclide A)] + [(aggregated source activity for radionuclide B) ÷ (quantity of concern for radionuclide B)] + etc. * * * ≥1

Attachment C—Increased Controls for Licensees That Possess Sources Containing Radioactive Material Quantities of Concern

The purpose of the increased controls (IC) for radioactive sources is to enhance control of radioactive material in quantities greater than or equal to values described in Table 1, to reduce the risk of unauthorized use of radioactive materials, through access controls to aid prevention, and prompt detection, assessment, and response to mitigate potentially high consequences that would be detrimental to public health and safety. These increased controls for radioactive sources are established to delineate licensee responsibility to maintain control of licensed material and secure it from unauthorized removal or access. The following increased controls apply to licensees which, at any given time, possess radioactive sources greater than or equal to the quantities of concern of radioactive material defined in Table 1.

IC 1. In order to ensure the safe handling, use, and control of licensed material in use and in storage each licensee shall control access at all times to radioactive material quantities of concern and devices containing such radioactive material (devices), and limit access to such radioactive material and devices to only approved individuals who require access to perform their duties.

a. The licensee shall allow only trustworthy and reliable individuals, approved in writing by the licensee, to have unescorted access to radioactive material quantities of concern and devices. The licensee shall approve for unescorted access only those individuals with job duties that require access to such radioactive material and devices. Personnel who require access to such radioactive material and devices to perform a job duty, but who are not approved by the licensee for unescorted access, must be escorted by an approved individual.

b. For individuals employed by the licensee for three years or less, and for non-licensee personnel, such as physicians, physicists, house-keeping personnel, and security personnel under contract, trustworthiness and reliability shall be determined, at a minimum, by verifying employment history, education, and personal references, and fingerprinting and the review of an FBI identification and criminal history records check. The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the employee (*i.e.*, seeking references not supplied by the individual). For individuals employed by the licensee for longer than three years, trustworthiness and reliability shall be determined, at a minimum, by a review of the employees' employment history with the licensee and fingerprinting and an FBI identification and criminal history records check.

c. All individuals requiring access to radioactive material quantities of concern or devices shall be escorted unless determined to be trustworthy and reliable by an NRC-required background investigation. In the case of a service provider's employee, the licensee shall obtain from the service provider written verification attesting to or certifying the employee's trustworthiness and reliability before granting unescorted access.

d. The licensee shall document the basis for concluding that there is reasonable assurance that an individual granted unescorted access is trustworthy and reliable, and does not constitute an unreasonable risk for unauthorized use of radioactive material quantities of concern. The licensee shall maintain a list of persons approved for unescorted access to such radioactive material and devices by the licensee.

IC 2. In order to ensure the safe handling, use, and control of licensed material in use and in storage, each licensee shall have a documented program to monitor and immediately detect, assess, and respond to unauthorized access to radioactive material quantities of concern and devices. Enhanced monitoring shall be provided during periods of source delivery or shipment, where the delivery or shipment exceeds 100 times the Table 1 values.

a. The licensee shall respond immediately to any actual or attempted theft, sabotage, or diversion of such radioactive material or of the devices. The response shall include requesting assistance from a Local Law Enforcement Agency (LLEA).

b. The licensee shall have a pre-arranged plan with LLEA for assistance in response to an actual or attempted theft, sabotage, or diversion of such radioactive material or of the devices which is consistent in scope and timing with a realistic potential vulnerability of the sources containing such radioactive material. The pre-arranged plan shall be updated when changes to the facility design or operation affect the potential vulnerability of the sources. Pre-arranged LLEA coordination is not required for temporary job sites.

c. The licensee shall have a dependable means to transmit information between, and among, the various components used to detect and identify an unauthorized intrusion, to inform the assessor, and to summon the appropriate responder.

d. After initiating appropriate response to any actual or attempted theft, sabotage, or diversion of radioactive material or of the devices, the licensee shall, as promptly as possible, notify NRC Operations Center at (301) 816–5100.

e. The licensee shall maintain documentation describing each instance of unauthorized access and any necessary corrective actions to prevent future instances of unauthorized access.

IC 3. a. In order to ensure the safe handling, use, and control of licensed material in transportation for domestic highway and rail shipments by a carrier other than the licensee, for quantities that equal or exceed those in Table 1 but are less than 100 times Table 1 quantities, per consignment, the licensee shall:

1. Use carriers which:

A. Use package tracking systems,

B. Implement methods to assure trustworthiness and reliability of drivers,

C. Maintain constant control and/or surveillance during transit, and

D. Have the capability for immediate communication to summon appropriate response or assistance. The licensee shall verify and document that the carrier employ the measures listed above.

2. Contact the recipient to coordinate the expected arrival time of the shipment;

3. Confirm receipt of the shipment; and

4. Initiate an investigation to determine the location of the licensed material if the shipment does not arrive on or about the expected arrival time. When, through the course of the investigation, it is determined the shipment has become lost, stolen, or missing, the licensee shall immediately notify the NRC Operations Center at

(301) 816–5100. If, after 24 hours of investigating, the location of the material still cannot be determined, the radioactive material shall be deemed missing and the licensee shall immediately notify the NRC Operations Center at (301) 816–5100.

b. For domestic highway and rail shipments, prior to shipping licensed radioactive material that exceeds 100 times the quantities in Table 1 per consignment, the licensee shall:

1. Notify the NRC [1], in writing, at least 90 days prior to the anticipated date of shipment. The NRC will issue the Order to implement the Additional Security Measures (ASMs) for the transportation of Radioactive Material Quantities of Concern (RAM QC). The licensee shall not ship this material until the ASMs for the transportation of RAM QC are implemented or the licensee is notified otherwise, in writing, by NRC.

2. Once the licensee has implemented the ASMs for the transportation of RAM QC, the notification requirements of 3.b.1 shall not apply to future shipments of licensed radioactive material that exceeds 100 times the Table 1 quantities. The licensee shall implement the ASMs for the transportation of RAM QC.

c. If a licensee employs an M&D licensee to take possession at the licensee's location of the licensed radioactive material and ship it under its M&D license, the requirements of 3.a. and 3.b above shall not apply.

d. If the licensee is to receive radioactive material greater than or equal to the Table 1 quantities, per consignment, the licensee shall coordinate with the originator to:

1. Establish an expected time of delivery; and

2. Confirm receipt of transferred radioactive material. If the material is not received at the expected time of delivery, notify the originator and assist in any investigation.

IC 4. In order to ensure the safe handling, use, and control of licensed material in use and in storage each licensee that possesses mobile or portable devices containing radioactive material in quantities greater than or equal to Table 1 values, shall:

a. For portable devices, have two independent physical controls that form tangible barriers to secure the material from unauthorized removal when the device is not under direct control and constant surveillance by the licensee.

b. For mobile devices:

1. that are only moved outside of the facility (*e.g.*, on a trailer), have two independent physical controls that form tangible barriers to secure the material from unauthorized removal when the device is not under direct control and constant surveillance by the licensee.

2. that are only moved inside a facility, have a physical control that forms a tangible barrier to secure the material from unauthorized movement or removal when the device is not under direct control and constant surveillance by the licensee.

c. For devices in or on a vehicle or trailer, licensees shall also utilize a method to disable the vehicle or trailer when not under direct control and constant surveillance by the licensee

IC 5. The licensee shall retain documentation required by these increased controls for three years after they are no longer effective:

a. The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for three years after the individual's employment ends.

b. Each time the licensee revises the list of approved persons required by 1.d., or the documented program required by 2, the licensee shall retain the previous documentation for three years after the revision.

c. The licensee shall retain documentation on each radioactive material carrier for three years after the licensee discontinues use of that particular carrier.

d. The licensee shall retain documentation on shipment coordination, notifications, and investigations for three years after the shipment or investigation is completed.

e. After the license is terminated or amended to reduce possession limits below the quantities of concern, the licensee shall retain all documentation required by these increased controls for three years.

IC 6. Detailed information generated by the licensee that describes the physical protection of radioactive material quantities of concern, is sensitive information and shall be protected from unauthorized disclosure.

a. The licensee shall control access to its physical protection information to those persons who have an established need to know the information, and are considered to be trustworthy and reliable.

b. The licensee shall develop, maintain and implement policies and procedures for controlling access to, and for proper handling and protection against unauthorized disclosure of, its physical protection information for radioactive material covered by these requirements. The policies and procedures shall include the following:

1. General performance requirement that each person who produces, receives, or acquires the licensee's sensitive information, protect the information from unauthorized disclosure,

2. Protection of sensitive information during use, storage, and transit,

3. Preparation, identification or marking, and transmission,

4. Access controls,

5. Destruction of documents,

6. Use of automatic data processing systems, and

7. Removal from the licensee's sensitive information category.

[FR Doc. E9–29654 Filed 12–11–09; 8:45 am]

BILLING CODE 7590–01–P

[1] Director, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0549; Docket No. 50–113]

Notice and Solicitation of Comments Pursuant to 10 CFR 20.1405 and10 CFR 50.82(B)(5) Concerning Proposed Action To Decommission the University of Arizona Reactor Facility

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has received an application from the University of Arizona to approve a decommissioning plan dated May 21, 2009, for the University of Arizona Nuclear Reactor Laboratory (Facility License No. R–52) located in Tuscon, Arizona.

In accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) 20.1405, the Commission is providing notice and soliciting comments from local and State governments in the vicinity of the site and any Indian Nation or other indigenous people that have treaty or statutory rights that could be affected by the decommissioning. This notice and solicitation of comments is published pursuant to 10 CFR 20.1405, which provides for publication in the **Federal Register** and in a forum, such as local newspapers, letters to State or local organizations, or other appropriate forum, that is readily accessible to individuals in the vicinity of the site.

Comments should be provided within 30 days of the date of this notice You may submit comments by any one of the following methods. Please include Docket ID NRC–2009–0549 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal

rulemaking Web site Regulations.gov. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2009–0549. Address questions about NRC dockets to Carol Gallagher 301–492–3668; e-mail *Carol.Gallagher@nrc.gov*.

Mail comments to: Michael T. Lesar, Chief, Rulemaking and Directives Branch (RDB), Division of Administrative Services, Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to RDB at (301) 492–3446.

Further, in accordance with 10 CFR 50.82(b)(5), notice is also provided to interested persons of the Commission's intent to approve the plan by amendment, subject to such conditions and limitations as it deems appropriate and necessary, if the plan demonstrates that decommissioning will be performed in accordance with the regulations in this chapter and will not be inimical to the common defense and security or to the health and safety of the public.

A copy of the application (Accession Number ML091490076) is available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at (the Public Electronic Reading Room) *http://www.nrc.gov/reading-rm/adams.html.*

Dated at Rockville, Maryland, this 30th day of November, 2009.

For the Nuclear Regulatory Commission.

Kathryn M. Brock,

Chief, Research and Test Reactors Branch A, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. E9–29659 Filed 12–11–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–157; NRC–2009–0382]

Notice of Renewal of Special Nuclear Material License No. SNM–180 [University of Texas at Austin]

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of renewal of license.

FOR FURTHER INFORMATION CONTACT: Rafael L. Rodriguez, Project Manager, Fuel Manufacturing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Rockville, MD 20852. *Telephone:* (301) 492–3111; *Fax number:* (301) 492–3363; *E-mail: Rafael.Rodriguez@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

By letter dated December 13, 2007, the Nuclear Engineering Teaching Laboratory (NETL) at the University of Texas at Austin (UTX–A) requested the renewal of Special Nuclear Material License No. SNM–180. Pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.106, the U.S. Nuclear Regulatory Commission (NRC) is providing notice that Special Nuclear Material License No. SNM–180, which authorizes the NETL at the UTX–A to receive title to, own, acquire, receive, possess, use, and transfer plutonium and uranium enriched up to 20% by weight, has been renewed for a period of 10 years. The NETL's request for the proposed renewed license was previously noticed, and an opportunity to request a hearing provided, in the **Federal Register** on September 10, 2009 (74 FR 46626). No requests for a hearing were received. The proposed licensing action was categorically excluded under 10 CFR 51.22(c)(14)(v) from the requirements to prepare an Environmental Assessment or an Environmental Impact Statement.

This license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and NRC's rules and regulations as set forth in 10 CFR Chapter 1. Accordingly, this license was renewed on November 13, 2009, and is effective immediately.

II. Further Information

The NRC has prepared a Safety Evaluation Report (SER) that documents the information that was reviewed and the NRC's conclusion. In accordance with 10 CFR 2.390 of the NRC's ''Rules of Practice,'' details with respect to this action, including the SER and accompanying documentation included in the license package, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are:

(a) ML080240243: Non-Sensitive License Renewal Application for SNM–180 (License No. SNM–180; Docket No. 70–157).

(b) ML080420575: Acceptance of the University of Texas-Austin's License Renewal Application and Notice of Timely Renewal Status (TAC L32659).

(c) ML092030533: Revised Non-Sensitive License Renewal Application for SNM–180.

(d) ML093030057: SER in Support of License Renewal Application (Public Version).

(e) ML093030056: Special Nuclear Materials License No. SNM–180 (Public Version).

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *PDR.Resource@nrc.gov*.

These documents may also be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O–1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, MD this 5th day of December 2009.

For the Nuclear Regulatory Commission.

Peter J. Habighorst,

Chief, Fuel Manufacturing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E9–29656 Filed 12–11–09; 8:45 am]

BILLING CODE 7590–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11960 and #11961]

Arkansas Disaster #AR–00038

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for

the State of Arkansas (FEMA–1861–DR), dated 12/03/2009.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 10/29/2009 and continuing.

Effective Date: 12/03/2009.

Physical Loan Application Deadline Date: 02/01/2010.

Economic Injury (EIDL) Loan Application Deadline Date: 09/03/2010.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: Michael Mitravich, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 12/03/2009, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Boone, Bradley, Calhoun, Carroll, Cleburne, Cleveland, Columbia, Conway, Cross, Dallas, Franklin, Fulton, Grant, Izard, Jackson, Johnson, Lafayette, Lawrence, Lincoln, Logan, Marion, Monroe, Nevada, Newton, Ouachita, Poinsett, Prairie, Pulaski, Randolph, Saint Francis, Scott, Sharp, Stone, Union, Van Buren, White, Woodruff.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	3.625
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 11960B and for economic injury is 11961B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9–29596 Filed 12–11–09; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Export Express Pilot Program

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice of Pilot Program extension.

SUMMARY: This notice announces the extension of SBA's Export Express Pilot Program until December 31, 2010. This extension will allow time for the Agency to further market and evaluate this specific loan program for exporters and analyze the Program's performance during the next 12 months.

DATES: The Export Express Pilot Program is extended under this notice until December 31, 2010.

FOR FURTHER INFORMATION CONTACT: Patrick Tunison, Office of International Trade, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416; Telephone (202) 205–7429; *Patrick.Tunison@sba.gov.*

SUPPLEMENTARY INFORMATION: Established in 1998, the Export Express Pilot Program assists current and prospective small business exporters, particularly those needing revolving lines of credit. Export Express is an SBA Pilot Program under the Agency's 7(a) lending program that extends a streamlined process to small business exporters and their lenders. The maximum loan amount under this Program is $250,000. The pilot was scheduled to end on December 31, 2009. This notice announces the extension of SBA's Export Express Pilot Program until December 31, 2010.

SBA estimates that small business exports grew by 58% from 2002 to 2007, from $300 billion to $475 billion (Source: SBA, Bureau of Economic Analysis GDP data and Census Bureau *A Profile of US Exporting Companies*). Almost a quarter of a million small businesses export, and they account for 29 percent of all U.S. exports (Source: *A Profile of US Exporting Companies,* Census Bureau). Designed to serve the particular capital needs of small business exporters, the number of Export Express loans approved in 2009 was double those closed in 2008 (227 versus 104) and the approved loan dollar amount increased by more than 91% ($15M versus $8M). In addition, the number of lenders delegated the authority to use expedited loan processing was increased by five in 2009. These indicators reflect an increasing utility and need for the Export Express Program. Extension of this pilot program through December 31, 2010 will enable the Agency to analyze performance and refine the elements/structure of the Export Express Loan Pilot Program.

In prior years, the Agency stated that it would complete an analysis of this program to help determine its long-term viability. This analysis primarily includes lender and borrower participation in the program as well as portfolio performance. Because this year the program was changed through Recovery Act provisions that reduced program fees and increased guarantees, the Agency is unable to separate baseline program statistics from this year's special circumstances and is therefore providing an additional pilot year to review performance.

Authority: 13 CFR 120.3.

Richard Blewett,

Acting Director, Office of Financial Assistance.

[FR Doc. E9–29673 Filed 12–11–09; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

SBA North Florida District Advisory Council

AGENCY: U.S. Small Business Administration.

ACTION: Notice of open Federal Advisory Committee meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time, and agenda for the next meeting of the SBA North Florida District Advisory Council. The meeting will be open to the public.

DATES: The meeting will be held on Thursday, January 14, 2010 from 11:30 a.m. to 2 p.m. Eastern Standard Time.

ADDRESSES: The meeting will be held at the Disney Entrepreneur Center, 315 East Robinson St., Orlando, FL 32801.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the SBA North Florida District Advisory Council. The SBA North Florida District Advisory Council is tasked with providing advice and opinions to SBA regarding the effectiveness of and need for SBA programs, particularly within North Florida and for listening to what is currently happening in the Florida small business community.

The purpose of the meeting is to discuss with the council the current status of small business across North Florida and to discuss the agency status, especially in regards to ARRA updates. The agenda includes: An overview of the status of the SBA as an agency from

Wilfredo J. Gonzalez, SBA District Director, as well as a luncheon/meeting to hear from the members of the council and to hear from the SBA staff on SBA updates for the District.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public, however, advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the SBA North Florida District Advisory Council must contact Lola Kress by January 11, 2010, by fax or e-mail in order to be placed on the agenda. Lola Kress, Business Development Specialist, SBA North Florida District Office, *lola.kress@sba.gov*, (904) 443–1933, fax (202) 481–4188.

Additionally, if you need accommodations because of a disability or require additional information, please contact Lola Kress, Business Development Specialist, SBA North Florida District Office, *lola.kress@sba.gov*, (904) 443–1933.

Dated: December, 8, 2009.

Susan Walthall,

SBA Committee Management Officer.

[FR Doc. E9–29590 Filed 12–11–09; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Regulations; 8(a) Business Development/Small Disadvantaged Business Status Determinations

AGENCY: U.S. Small Business Administration.

ACTION: Notice of public meetings; request for comments.

SUMMARY: The U.S. Small Business Administration (SBA) announces it is holding a series of public meetings on the topic of the proposed changes to the 8(a) Business Development (BD) Program Regulations and Small Business Size Regulations. Testimony and comments presented at the public comment meetings will become part of the administrative record as comments addressing the proposed changes to the regulations pertaining to the 8(a) BD program and small business size standards. In conjunction with the public meetings SBA is conducting tribal consultations prior to the end of the comment period for the proposed rulemaking.

DATES: See **SUPPLEMENTARY INFORMATION** section for meeting dates.

ADDRESSES: 1. New York, NY—Jacob Javitz Federal Bldg, 26 Federal Plaza, 6th Floor Conference Center—Room D, New York, New York 10278. (Visitors will be subject to a security screening and might be required to present valid photo identification.)

2. Seattle, Washington—South Seattle Community College's Georgetown Campus, Building C—Gene J. Colin Ed. Bldg, 6737 Corson Avenue South, Seattle, WA 98108.

3. Boston, Massachusetts—Tip O'Neil Federal Bldg, 1st Floor Auditorium, 10 Causeway Street, Boston, MA 02222. (Visitors will be subject to a security screening and might be required to present valid photo identification.)

4. Dallas, Texas—University of Texas In Arlington—Riverbend Campus, 7300 Jack Newell Blvd South, Fort Worth, Texas 76118.

5. Atlanta, Georgia—Sam Nunn Federal Center, Conference Level, 61 Forysth Street, SW., Atlanta, GA 30303. (Visitors will be subject to a security screening and might be required to present valid photo identification.)

6. Albuquerque, NM—Central New Mexico Community College, Smith Brasher Hall of, 525 Buena Vista Dr., SE., Albuquerque, NM 87106.

7. Chicago, Illinois—SBA Illinois District Office, 500 West Madison Street, Suite 1250—Conference Room A, Chicago, IL 60661. (Visitors will be subject to a security screening and might be required to present valid photo identification.)

Send all written comments to Mr. Joseph Loddo, Associate Administrator for Business Development, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: If you have any questions on this proposed rulemaking, call or e-mail LeAnn Delaney, Deputy Associate Administrator, Office of Business Development, at (202) 205–5852, or *leann.delaney@sba.gov.* If you have any questions about registering or attending the public meeting please contact Ms. Latrice Andrews, SBA's Office of Business Development at (202) 205–5852, or *latrice.andrews@SBA.gov,* or by facsimile to (202) 481–4042.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 2009 (74 FR 55694–01), SBA issued a Notice of Proposed Rulemaking (NPRM). In that document, SBA proposed to make a number of changes to the regulations governing the 8(a) BD Program Regulations and several changes to its Small Business Size Regulations. Some of the changes involve technical issues. Other changes are more substantive and result from SBA's experience in implementing the current regulations. In addition to written comments, SBA is requesting oral comments on the various approaches for the proposed changes.

II. Public Hearings

The public meeting format will consist of a panel of SBA representatives who will preside over the session. The oral and written testimony will become part of the administrative record for SBA's consideration. Written testimony may be submitted in lieu of oral testimony. SBA will analyze the testimony, both oral and written, along with any written comments received. SBA officials may ask questions of a presenter to clarify or further explain the testimony. The purpose of the public meetings is to allow the general public to comment on SBA's proposed rulemaking. SBA requests that the comments focus on the proposed changes as stated in the NPRM. SBA requests that commentors do not raise issues pertaining to other SBA small business programs. Presenters may provide a written copy of their testimony. SBA will accept written material that the presenter wishes to provide that further supplements his or her testimony. Electronic or digitized copies are encouraged.

SBA will hold additional public meetings before the close of the comment period for this rulemaking. In conjunction with the public meetings SBA is conducting tribal consultations prior to the end of the comment period for the proposed rulemaking. The meeting notice for these tribal consultations was published in the **Federal Register** on December 7, 2009 (74 FR 64026).

The public meetings will be held on the dates listed below for each location from 9 a.m. to 4 p.m. each day.

VENUE INFORMATION

Location	Address	Hearing date	Registration closing date
New York, NY	Jacob Javitz Federal Bldg, 26 Federal Plaza, 6th Floor Conference Center—Room D, New York, New York 10278*.	Wednesday, December 16, 2009.	Friday, December 11, 2009.
Seattle, Washington	South Seattle Community College's Georgetown Campus, Building C—Gene J. Colin Ed. Bldg, 6737 Corson Avenue South, Seattle, WA 98108.	Thursday, December 17, 2009.	Monday, December 14, 2009.
Boston, Massachusetts	Tip O'Neil Federal Bldg, 1st Floor Auditorium, 10 Causeway Street, Boston, MA 02222*.	Friday, December 18, 2009	Monday, December 14, 2009.
Dallas, Texas	University of Texas In Arlington—Riverbend Campus, 7300 Jack Newell Blvd South, Fort Worth, Texas 76118.	Monday, January 11, 2010	Monday, January 4, 2010.
Atlanta, Georgia	Sam Nunn Federal Center, Conference Level, 61 Forysth Street, SW., Atlanta, GA 30303*.	Tuesday, January 12, 2010	Monday, January 4, 2010.
Albuquerque, NM	Central New Mexico Community College, Smith Brasher Hall of, 525 Buena Vista Dr., SE., Albuquerque, NM 87106.	Friday, January 15, 2010 ..	Monday, January 4, 2010.
Chicago, Illinois	SBA Illinois District Office, 500 West Madison Street, Suite 1250—Conference Room A, Chicago, IL, 60661*.	Tuesday, January 19, 2010	Monday, January 11, 2010.

*Visitors will be subject to a security screening and might be required to present valid photo identification.

Registration requests must be received on or before the respective deadline by 5 p.m., Eastern Standard Time.

III. Registration

Any individual interested in attending and making an oral presentation shall pre-register in advance with SBA. Registration requests must be received by SBA no later than 5 p.m., Eastern Standard Time. Please see registration information in this section for specific dates. Please contact Ms. Latrice Andrews of SBA's Office of Business Development in writing to register at *Latrice.Andrews@sba.gov* or by facsimile to (202) 481–4042. Please include the following information relating to the person testifying: Name, Organization affiliation, Address, Telephone number, E-mail address, and Fax number. SBA will attempt to accommodate all interested parties that wish to present testimony. Based on the number of registrants it may be necessary to impose time limits to ensure that everyone who wishes to testify has the opportunity to do so. SBA will send confirmation of registration in writing to the presenters and attendees.

IV. Information on Service for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the public meetings, contact Ms. Latrice Andrews at the telephone number or e-mail address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Authority: 15 U.S.C. 632, 634(b)(6), 636(b), 637(a), 644 and 662(5); and Pub. L. 105–135, sec. 401 *et seq.*, 111 Stat. 2592.

Joseph P. Loddo,

Associate Administrator for Business Development.

[FR Doc. E9–29588 Filed 12–11–09; 8:45 am]

BILLING CODE 8025–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form N–Q; SEC File No. 270–519; OMB Control No. 3235–0578.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form N–Q (17 CFR 249.332 and 274.130) is a combined reporting form that is used for reports of registered management investment companies (''funds''), other than small business investment companies registered on Form N–5, under Section 30(b) of the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''Investment Company Act'') and Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). Pursuant to Rule 30b1–5 under the Investment Company Act, funds are required to file with the Commission quarterly reports on Form N–Q, not more than 60 days after the close of the first and third quarters of each fiscal year, containing their complete portfolio holdings.

Form N–Q contains collection of information requirements. The respondents to this information collection are management investment companies subject to Rule 30b1–5 under the Investment Company Act. Approximately 8,000 portfolios are required to file reports on Form N–Q, which is estimated to require an average of 21 hours per portfolio per year to complete. The estimated annual burden of complying with the filing requirement is approximately 168,000 hours. The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms. The collection of information under Form N–Q is mandatory. The information provided by the form is not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the

agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Charles Boucher, Director/CIO, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*.

December 8, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–29633 Filed 12–11–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, December 17, 2009 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c), (5), (7), 9(B) and (10) and 17 CFR 200.402(a), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Paredes, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Thursday, December 17, 2009 will be:

Institution and settlement of injunctive actions; Institution and settlement of administrative proceedings; Consideration of amicus participation; and Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: December 10, 2009.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–29796 Filed 12–10–09; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on December 16, 2009 at 10 a.m., in the Auditorium, Room L–002.

The subject matter of the Open Meeting will be:

Item 1: The Commission will consider whether to adopt amendments to rules and forms under the Securities Act of 1933, the Securities Exchange Act of 1934 and the Investment Company Act of 1940 to enhance the disclosures that registrants are required to make about compensation and other corporate governance matters.

Item 2: The Commission will consider whether to adopt amendments to the investment adviser custody rule (rule 206(4)–2) under the Investment Advisers Act of 1940) and related forms and rules. The amendments would enhance the protections provided advisory clients when they entrust their funds and securities to an investment adviser.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: December 9, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–29718 Filed 12–10–09; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61121; File No. SR–CBOE–2009–091]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the CBSX Market Data Infrastructure Fee

December 7, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 30, 2009, Chicago Board Options Exchange, Incorporated (''CBOE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') proposes to amend the CBOE Stock Exchange (''CBSX'') market data infrastructure fee. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/legal*), at the Exchange's Office of the Secretary and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

(a) Purpose

The Exchange charges CBSX market participants a monthly fee to recoup the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

fees CBSX pays a third party market data vendor and other parties to help establish facilities at CBSX through which the third party market data vendor can provide CBSX participants with certain market data.[3] The amount of the fee is equal to $20,400 divided by the number of CBSX participants receiving the market data. The Exchange proposes to reduce the fee to $10,800 divided by the number of CBSX participants receiving the market data, due to the fact that the Exchange's costs to provide this infrastructure have decreased.

(b) Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (''Act''),[4] in general, and furthers the objectives of Section 6(b)(4)[5] of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members. The proposed rule change will result in reduced fees charged to CBSX market participants who receive market data through CBSX's market data infrastructure.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and subparagraph (f)(2) of Rule 19b–4[7] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–CBOE–2009–091 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–CBOE–2009–091. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–CBOE–2009–091 and should be submitted on or before January 4, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–29628 Filed 12–11–09; 8:45 am]

BILLING CODE 8011–01–P

[3] *See* Exchange Act Release No. 55882 (June 8, 2007), 72 FR 32931 (June 14, 2007), Exchange Act Release No. 56000 (July 2, 2007), 72 FR 37554 (July 10, 2007), and Exchange Act Release No. 57472 (March 11, 2008), 73 FR 14515 (March 18, 2008).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61124; File No. SR–BX–2009–074]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Chapter XI (Communications With Public Customers)

December 7, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 19, 2009, NASDAQ OMX BX, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been substantially prepared by the Exchange. The Exchange has designated the proposed rule change as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to remove or otherwise amend elements of Chapter XI, Section 24[5] (''Communications with Public Customers'') of the Boston Options Exchange Group, LLC (''BOX'') Trading Rules that incorporate provisions of the Securities Act of 1933 (the ''Securities Act'')[6] because options traded on BOX consist solely of standardized options issued by the Options Clearing Corporation (''OCC''), a registered clearing agency, and are exempt under Securities Act Rule 238 from all provisions of the Securities Act

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] For ease of reference, Chapter XI, Section 24 will simply be referred to as ''Section 24.''

[6] 15 U.S.C. 77a *et seq.*

except the antifraud provisions of Section 17. In addition, the proposed amendments expand the types of communications governed by Section 24 to include independently prepared reprints and other communications between a participant or participant organization and a customer. The proposed amendments also exempt certain options communications from the pre-approval requirement by a Registered Options Principal (''ROP''). Additionally, the Exchange proposes to correct certain internal citation and typographical errors associated with earlier rule filings.[7] The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at: *http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

1. Purpose

On December 23, 2002, the Commission published final rules that exempt standardized options, as defined in Rule 9b–1 [8] of the Exchange Act,[9] that are issued by a registered clearing agency and traded on a national securities exchange or on a registered national securities association, from all provisions of the Securities Act (other than the anti-fraud provisions) and from the registration requirements of the Exchange Act.[10] Because the Securities Act and the rules thereunder (other than the anti-fraud provisions) are no longer applicable to such standardized options, the Exchange proposes to remove elements of the Securities Act that are embedded in Section 24 of the BOX Rules. In particular, the Exchange proposes to remove all references to a ''prospectus'' from Section 24. Prospectuses are no longer required for such standardized options, and the OCC has, in fact, ceased publication of a prospectus.[11] In addition, the proposed amendments will update and reorganize Section 24 of the BOX Rules. The proposed amendments are similar to amendments filed by the International Securities Exchange (''ISE'') and Chicago Board Options Exchange (''CBOE'') and approved by the Commission and would provide a more uniform approach to communications to customers regarding standardized options.[12]

Deletion of Certain Provisions

As noted above, Section 24 of the BOX Rules contains a number of references to the delivery of a prospectus and other Securities Act requirements. The Exchange proposes to delete the following from Chapter XI: Section 24(a)(iv), which references the Securities Act definition of prospectus; Section 24(e), which incorporates Securities Act principles in that it prohibits written material concerning options from being furnished to any person who has not previously or contemporaneously received the ODD; Section 24(b)(ii), which defines the term ''Educational Material;'' [13] Section 24(g), which outlines what is permitted in an ''Advertisement;'' and Section 24(h), which concerns the use of educational material.

Redesignation of Section 24(a) to Proposed Section 24(d) and Related Amendments

Section 24(a) currently contains an outline of the ''General Rule'' for options communications. The Exchange proposes to redesignate paragraph (a) as paragraph (d), and to incorporate limitations on the use of options communications contained in Section 24(f) into proposed Section 24(d). In addition, proposed Section 24(d)(iii) would amend Section 24(a)(iii) by clarifying the types of cautionary statements and caveats that are prohibited. Also, as previously noted, BOX proposes to delete Section 24(a)(iv). Further, current Section 24(i) sets forth the standards applicable to Sales Literature and Section 24(i)(i) sets forth the requirement that Sales Literature shall state that supporting documentation for any claims, comparisons, recommendations, statistics or other technical data, will be supplied upon request. The Exchange proposes to redesignate Section 24(i)(i) as Section 24(d)(vii).

Redesignation of Section 24(c) to Proposed Section 24(b) and Related Amendments

The Exchange proposes to redesignate paragraph (c) as paragraph (b). The Exchange also proposes to amend this paragraph to include the types of communications proposed to be added to the definition of ''Options Communications'' in proposed Section 24(a). Proposed Sections 24(b)(ii) and (b)(iii) would also amend the current requirements to obtain advance approval from a ROP for most options communications by exempting certain options communications, defined as ''Correspondence'' and ''Institutional Sales Material.'' Specifically, proposed Section 24(b)(ii) would exempt correspondence from the pre-approval requirement unless the correspondence is distributed to 25 or more existing retail customers within any 30 calendar-day period and makes any financial or investment recommendation or otherwise promotes a product or service of the member. All correspondence would be subject to general supervision and review requirements. Proposed Section 24(b)(iii) would exempt institutional sales material from the pre-approval requirement if the material is distributed to ''qualified investors'' (as defined in Section 3(a)(54) of the Exchange Act).[14] Pre-approval by a ROP would, however, be required with respect to independently prepared reprints. In addition, Proposed Section 24(b)(iv) would require that firms retain options communications in accordance with the record-keeping requirements of Rule 17a–4 under the Exchange Act.[15]

[7] *See* Securities Exchange Act Release No. 58221 (July 24, 2008), 73 FR 44296 (July 30, 2008) (SR–BSE–2008–29) and Securities Exchange Act Release No. 59434 (February 23, 2009), 74 FR 9012 (February 27, 2009) (SR–BSE–2008–56).

[8] 17 CFR 240.9b–1.

[9] 15 U.S.C. 78a *et seq*.

[10] *See* ''Exemption for Standardized Options From Provisions of the Securities Act of 1933 and From the Registration Requirements of the Securities Exchange Act of 1934; Final Rule,'' Securities Act Release No. 8171 (December 23, 2002), 68 FR 188 (January 2, 2003).

[11] The options disclosure document (''ODD'') prepared in accordance with Rule 9b–1 under the Exchange Act is not deemed to be a prospectus. 17 CFR 230.135b. *See, e.g.,* Securities Act Release No. 8049 (December 21, 2001).

[12] *See* Securities Exchange Act Release No. 58823 (October 21, 2008), 73 FR 63747 (October 27, 2008) (SR–CBOE–2007–30); and Securities Exchange Act Release No. 59600 (March 19, 2009), 74 FR 13286 (March 26, 2009) (SR–ISE–2009–09).

[13] This paragraph essentially incorporates language of Securities Act Rule 134a. While this amendment would eliminate the separate educational material category, as discussed below the Exchange also proposes to revise the definition of Sales Literature to include educational material.

[14] 15 U.S.C. 78c(a)(54).

[15] 17 CFR 240.17a–4. More specifically, Rule 17a–4(b)(4) requires that a broker-dealer retain ''originals

Proposed Section 24(b)(iv) would also require that firms retain other related documents in the form and for the time periods required for options communications by Rule 17a–4.

Redesignation of Section 24(d) to Proposed Section 24(c) and Related Amendments

The Exchange proposes to redesignate paragraph (d) as paragraph (c). Section 24(d) currently requires members to obtain approval for every advertisement and all educational material from the Exchange. This requirement applies regardless of whether the options communications are used before or after the delivery of a current ODD. The Exchange proposes to amend this provision to require approval by the Exchange only with respect to options communications used prior to the delivery of a current ODD. The Exchange is proposing to eliminate the pre-approval requirement for options communications used subsequent to the delivery of the ODD because the ODD should help alert the customer to the characteristics and risks associated with trading in options and because Section 24(b) requires the ROP of a member organization to pre-approve options communications (with certain exceptions for ''Correspondence'' and ''Institutional Sales Material''). This provision would also be amended to include the types of communications added to the definition of ''Options Communications'' in proposed Section 24(a).

Redesignation of Section 24(b) to Proposed Section 24(a) and Related Amendments

Section 24(b) currently defines terms used in Section 24. BOX proposes to redesignate paragraph (b) as paragraph (a). BOX also proposes to amend the definition of ''Options Communications'' in proposed Section 24(a) to expand the types of communications governed by Section 24 to include independently prepared reprints and other communications between a member or member organization and a customer. The Exchange proposes to amend the definitions of ''Advertisement'' and ''Sales Literature;'' and define ''Correspondence,'' ''Institutional Sales Material,'' ''Public Appearances,'' and ''Independently Prepared Reprints'' to make the rule more clear. In addition, as previously noted, BOX proposes to delete the definition of ''Educational Material.''

Proposed Section 24(e)

Proposed Section 24(e) would set forth (i) standards for options communications that are not preceded or accompanied by an ODD and (ii) standards for options communications used prior to delivery of an ODD. These requirements generally would clarify and restate the requirements contained in current Section 24(i). Proposed Section 24(e)(i)(2) would require options communications to contain contact information for obtaining a copy of the ODD. As previously noted, the provisions of Section 24(g) that outline what is permitted in an advertisement are proposed to be deleted and the provisions relating to standards for options communications used prior to delivery of the ODD are proposed to be incorporated into proposed Section 24(e)(ii).

Redesignation of Portions of Section 24(i) to Proposed Section 24(g), Proposed Section 24(h), Proposed Section 24(i), and Related Amendments

As stated above, the Exchange proposes to redesignate Section 24(i)(i) as proposed Section 24(d)(vii). Current Section 24(i)(ii) pertains to standards for Sales Literature that contains projected performance figures and current Section 24(i)(iii) pertains to standards for Sales Literature that contains historical performance figures. The Exchange proposes to redesignate Section 24(i)(ii) as proposed Section 24(g)(i) and current Section 24(i)(iii) as proposed Section 24(h). Section 24(i) currently requires that a copy of the ODD precede or accompany options related sales literature. The Exchange is proposing to modify the ODD delivery requirement applicable to sales literature to provide that an ODD must precede or accompany any communication that conveys past or projected performance figures involving options or constitutes a recommendation pertaining to options. A notice providing the name and address of a person from whom the ODD may be obtained would be required in sales literature that does not contain a recommendation or past or projected performance figures. Because BOX is proposing to merge educational material into the sales literature category,[16] this amendment would continue to allow communications that are educational in nature to be disseminated without being preceded or accompanied by a copy of the ODD.

The Exchange proposes to redesignate current Section 24(i)(iv) as proposed Section 24(i). The Exchange proposes to delete Sections 24(i)(v), (i)(vi), and (i)(vii). The Exchange believes that subparagraphs (i)(v) and (i)(vi) are unnecessary because worksheets are included in the definition of ''Sales Literature.'' The Exchange believes that subparagraphs (i)(vii) is no longer necessary because the Exchange is proposing to clarify the recordkeeping requirements applicable to options communications in proposed Section 24(b)(iv).

Additionally, the Exchange proposes to amend Sections 2, 10 and 24 to clarify certain potentially confusing or inaccurate citations from previous filings.[17] References to ''Registered Options and Security Futures Principal'' will be amended to refer to ''Registered Options Principal.'' Similarly, a reference to the ''supervision of options and security futures sales practices'' will be amended to remove the words ''and security futures.'' Unnecessary brackets in Section 10(a)(4) will be removed. In addition, references to ''Rule 10'' will be amended to refer to ''Section 10'' and the proper reference for the definition of ''control'' will be added in Section 10(h). Finally, references to Compliance Options Principal will be amended to refer to Registered Options Principal.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[18] in general, and Section 6(b)(5) of the Act,[19] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to prevent fraudulent and manipulative acts, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rule change will provide the investing public with options communications rules that are designed to provide appropriate safeguards and greater clarity by promoting harmonization between the Exchange's and other SROs' options communications rules. In addition, the corrections made will serve to minimize

of all communications received and copies of all communications sent * * * including all communications which are subject to rules of a self-regulatory organization of which the member, broker or dealer is a member regarding communications with the public.''

[16] *See* Proposed Section 24 (a)(ii).

[17] *See supra* note 7.

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

potential confusion by Exchange Participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

This proposed rule change was filed pursuant to paragraph (A) of section 19(b)(3) of the Exchange Act [20] and Rule 19b–4(f)(6) thereunder.[21] This proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Because the rule change is based upon rules in place at ISE and CBOE, and does not present any novel issues, and is intended to maintain consistency among the exchanges, the Exchange requests that the Commission waive the 30-day operative delay [22] period for ''non-controversial'' proposals and make the proposed rule change effective and operative upon filing. The Commission notes that the proposed rule change is substantially identical to proposed rule changes approved by the Commission after an opportunity for public comment,[23] and does not raise any new substantive issues. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and designates the proposal operative upon filing for ''non-controversial'' proposals and makes the proposed rule change effective and operative upon filing.[24]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml;* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–BX–2009–074 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2009–074. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for copying and inspection in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m., located at 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2009–074 and should be submitted on or before January 4, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–29629 Filed 12–11–09; 8:45 am]

BILLING CODE 8011–01–P

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6).

[22] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[23] The Exchange's proposed rule change is substantially identical to proposed rule changes by the CBOE and ISE that were recently approved by the Commission. *See supra* note 12.

[24] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61125; File No. SR–NYSE–2009–122]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Suspend Certain Provisions of NYSE Rules 116 and 123C Relating to the Requirement That the Closing Transaction Be Reported to the Consolidated Tape as a Single Transaction

December 7, 2009.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 4, 2009, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to suspending [sic] the provisions of NYSE Rules 116 (''Stop'' Constitutes Guarantee) and 123C (Market On The Close Policy And Expiration Procedures) and not require a single closing print to be reported to the Consolidated Tape for a closing transaction that exceeds 99,999,999 shares. The text of the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Through this filing the Exchange seeks to temporarily suspend the provisions of NYSE Rules 116.40(c) and 123C(3) that require the closing transaction to be reported to the Consolidated Tape last sale reporting system as a single transaction. Specifically, in the event a closing execution exceeds 99,999,999 shares the Exchange seeks to report the transaction to the Consolidated Tape as two prints even though it is a single transaction.

The Exchange currently reports the closing transaction to the Consolidated Tape as a single print pursuant to NYSE Rules 116.40(C) and 123C(3). As a result of a temporary size limitation in a new market data distribution system, Exchange systems currently cannot support prints greater than 99,999,999 shares. As a result, executions of greater than 99,999,999 shares must be sent to the Consolidated Tape as two prints. The two prints together will reflect the cumulative volume of the single closing transaction. Because this is inconsistent with the provisions of NYSE Rules116.40(C) and 123C(3), the Exchange proposes to temporarily suspend the provision of these rules that require the reporting of the closing execution as a single print.

The Exchange believes that reporting two prints will not have any detrimental affect [sic] on investors because both prints will be marked as the closing print. The Exchange further provides notice to its customers through its Trader Alert System.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[4] in general, and furthers the objectives of Section 6(b)(5) of the Act,[5] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes the proposed rule change will facilitate the timely and efficient reporting of the closing transaction on the Exchange and thus ultimately serve to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7]

A proposed rule change filed under Rule 19b–4(f)(6)[8] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[9] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that the proposed waiver of the requirement that the closing transaction be reported to the Consolidated Tape as a single transaction applies only to cases where the volume of the closing transaction in a security exceeds 99,999,999 shares, and that NYSE will notify market participants via its Trader Alert System each time it makes use of the waiver. The Commission understands that the Exchange expects its systems to be upgraded to accept a closing transaction whose volume exceeds 99,999,999 shares sometime in the near future.

Finally, the Exchange has also requested that this waiver be made operative as of the date of filing of this proposed rule change because of market conditions that lead the Exchange to believe that a closing print in excess of 99,999,999 shares could occur. Prior to this date, no closing transaction exceeded 99,999,999 shares, and the Exchange expects such large-sized closing transaction to be rare in the future. In light of the foregoing, the Commission designates the proposal operative upon filing.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived this requirement in this case.

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

• Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2009–122 on the subject line.

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2009–122. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2009–122 and should be submitted on or before January 4, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–29630 Filed 12–11–09; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61126; File No. SR–NYSE–2009–121]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Rule 1600 To More Fully Incorporate Away Market Contra Side Liquidity in the Execution of New York Block Exchange Orders

December 7, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on December 4, 2009, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal eligible for immediate effectiveness pursuant to Rule 19b–4(f)(6) under the Act.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 1600 (New York Block Exchange℠) (''NYBX℠'' or the ''Facility'') to provide for (i) routing away, for execution with all available top-of-book contra side quotations (not just those that would otherwise be traded through) displayed by other automated trading centers, of any portion of an NYBX order that remains after all available executions in the NYSE Display Book® (''Display Book'' or ''DBK'') and the Facility have taken place as provided in the current rule and (ii) including those same away market quotations of other automated trading centers in the determination of whether the optional, user-defined Minimum Triggering Volume Quantity (''MTV'') of an NYBX order is met. The text of the proposed rule change is available on NYSE's Web site at *http://www.nyse.com*, on the Commission's Web site at *http://www.sec.gov*, at the Exchange's principal office, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 1600 (New York Block Exchange℠) to provide for (i) routing away, for execution with all available top-of-book contra side quotations (not just those that would otherwise be traded through) displayed by other automated trading centers, of any portion of an NYBX order that remains after all available executions in DBK and the Facility have taken place as provided in the current rule and (ii) including those same away market quotations of other automated trading centers in the determination of whether the optional, user-defined MTV of an NYBX order is met. The following discussion includes examples to demonstrate the functioning of these changes in practice.

A. Provide routing to other automated trading centers to allow the remaining portion of an NYBX order to execute with available top-of-book contra side quotations on these markets

As currently provided in NYSE Rule 1600, an order or residual portion of an order in the New York Block Exchange facility (''NYBX'' or the ''Facility'') of the NYSE that has exhausted all available contra side liquidity in both the NYSE Display Book (''DBK'') and the Facility itself, as well as any trades against protected quotations of automated trading centers that would otherwise have been traded through, will be sent back to or remain in, as the case may be, the Facility and be placed on the NYBX book. As the system currently operates, such an order remaining in the Facility will continue to attempt to execute with available contra side liquidity in the Facility and the DBK and with protected quotations as described in the previous sentence

until such orders are exhausted, expired or cancelled back to the user pursuant to time in force conditions or until all applicable liquidity is exhausted at the end of the regular trading day.

The purpose of the proposed amendment is to increase execution opportunities for orders entered into NYBX by utilizing away markets more fully than the Facility does at present. This will be accomplished by adding additional routing to away markets for those orders in NYBX described above that have exhausted all available contra side liquidity in the Facility and the DBK (if any) and the residual portion of which would otherwise be placed on the NYBX book. Portions of the residual from such an order, or potentially the entire order if there is no available contra side liquidity in either the DBK or the Facility itself, will be routed out to other automated trading centers as ISO/IOC orders for execution against available contra side quotations displayed by such markets, even though no potential trade through is involved and the routing is not required under Regulation NMS.

Upon the return to the Facility of any unexecuted volume following a routing to the DBK and also upon execution against any remaining available contra side liquidity in the Facility, NYBX will evaluate the market again to check for updated market data and will route the residual order based on that update.[4] The amount of an NYBX residual order routed to each away market will be exactly the size displayed for the available top-of-book contra side protected quotation at each automated trading center—there will be no oversizing of the portion of the order sent to any away market. An exception will occur in any situation where the residual order size is insufficient to route the full displayed size to every away market, in which case the number of shares routed to one or more of the away markets may be less than the full displayed size on such market(s). In the event that multiple away markets are displaying available top-of-book contra side quotations at the same price, and the residual order size to be routed is less than the total available top-of-book contra side liquidity displayed on those markets, the routing sequence of the order as between those markets will be determined by a routing table.

In the event that the residual order size available to be routed away exceeds the total available top-of-book contra side liquidity displayed on all of the away markets, the portion of the order to be routed to each of those automated trading centers will be the displayed size of the available top-of-book contra side quotation at each away market, with the remaining portion of the order simultaneously being placed on the NYBX book, where it will continue to attempt to further execute with available contra side liquidity in the Facility, the DBK and automated quotations of away markets, in the same sequence as described above as such liquidity becomes available and assuming that the MTV of the order is met. Any volume from the order that was routed away to other automated trading centers for execution but was not executed will, upon its return to the Facility, cause the Facility to again evaluate the market to check for updated market data that could trigger additional routing of the remaining portion of the order. Otherwise, that unexecuted volume will also be placed on the NYBX book.

The following examples demonstrate how NYBX orders will be processed under the proposed amendment.

NYBX Market Evaluation

NYBX (Sell orders):
500 shares @ 19.99
500 shares @20.00
500 shares @20.01
DBK (Sell orders):
400 shares @ 19.99 (hidden)
600 shares @ 20.00
300 shares @20.01
PHLX (Sell orders):
1000 shares @ 20.00 (NBBO)
NYSE Arca (Sell orders):
1000 shares @ 20.00

Scenario A: Buy 5000 shares at 20.00 (MTV = 100 shares) Results:

- 5000 routed to DBK at 19.99
- 400 executes on DBK at 19.99; leaves 4600
- 4600 sent back to NYBX at 19.99
- Verify no market data updates
- 500 executes on NYBX at 19.99; leaves 4100
- Verify no market data updates
- 4100 routed to DBK at 20.00
- 600 executes on DBK at 20.00; leaves 3500
- 3500 sent back to NYBX at 20.00
- Verify no market data updates
- 500 executes on NYBX at 20.00; leaves 3000
- Verify no market data updates

As the Facility currently operates, the residual of 3000 shares to buy would be placed on the NYBX book at 20.00. Under the revised logic being proposed, of the 3000 residual shares, 1000 shares would be routed to PHLX and 1000 shares would be routed to NYSE Arca to execute against the available contra side size displayed on each of those markets, resulting in the following additional outcomes:[5]

- 1000 routed to PHLX at 20.00
- 1000 routed to NYSE Arca at 20.00
- 1000 placed on the NYBX book at 20.00
- 1000 executes on PHLX at 20.00; leaves 2000
- 1000 executes on NYSE Arca at 20.00; leaves 1000

Note that the 1000 shares that are placed back on the NYBX book at the end of the revised process would not be executable against any away automated market center based on the market evaluation being used for execution and routing purposes. This is in contrast to the 3000 shares that would be placed on the NYBX book based on the way that the Facility currently operates, a portion of which would be capable of executing against the top-of-book automated quotes of PHLX and NYSE Arca.

Scenario B: Same as Scenario A except that a new market evaluation following the last execution on NYBX as shown above (with 3,000 shares remaining to be executed on the order) indicates the following:
NYBX (Sell orders):
500 shares @ 20.00
DBK (Sell orders):
500 shares @ 20.00
500 shares @ 20.00 (hidden)
PHLX (Sell orders):
500 shares @ 19.99 (NBBO)
NYSE Arca (Sell orders):
500 shares @ 20.00

Under this scenario and the revised logic being proposed, the fact that there is new available liquidity indicated in DBK (and in this example, in NYBX as well) and a new top-of-book quotation at an away automated market center representing a potential trade through situation completely alters the routing sequence at this point from what it would be based on the previous market evaluation. The first priority is to

[4] In the event that the DBK quotation has been updated at the time of such an interim market evaluation and there is new executable contra side liquidity in DBK, the full size of the residual order will be routed back to DBK and the normal execution sequence will be repeated from that point. If, at any point, such an evaluation indicates that there is no new executable contra side liquidity in the DBK but there is executable contra side liquidity in the Facility, the order will execute to the extent possible against that liquidity, evaluate the market again to check for updated market data, and route the residual order accordingly. Once this iterative process has run its course, with no new executable contra side liquidity available in either the DBK or the Facility, the residual order or portions thereof will be routed out to execute against the available contra side protected quotations displayed by other automated trading centers, as described in the preceding paragraph.

[5] In this example, it is assumed that no change in the state of the market is indicated at the time of the updating market evaluation described above that takes place following each routing to DBK.

eliminate the potential trade through, so 500 shares are routed to PHLX in compliance with Regulation NMS to execute against the top-of-book liquidity displayed there. The remaining 2500 shares are routed to DBK to execute against the liquidity there and any remaining portion of the order is then sent back to the Facility to execute against the liquidity there. Assume these steps result in the following additional outcomes:

- 500 executes on PHLX at 19.99
- 1000 executes on DBK at 20.00
- 500 executes on NYBX at 20.00

These executions would result in a total of 1000 shares to buy remaining from the order. Before appropriate volume is routed out to execute against the displayed top-of-book liquidity at NYSE Arca, two more market evaluations would have been performed as indicated below as a result of (i) the additional routing to DBK and the return of unexecuted volume to the Facility and (ii) the execution on NYBX of a portion of the remaining volume from the order. Assuming that neither of these new market evaluations shows any further change in the state of the market (*i.e.,* the only available sell orders at the limit price or better are the 500 shares at NYSE Arca), 500 of the remaining 1000 shares from the order would be routed to NYSE Arca for execution. Consequently, the complete outcome for this scenario is as follows:

Results:

- 5000 routed to DBK at 19.99
- 400 executes on DBK at 19.99; leaves 4600
- 4600 sent back to NYBX at 19.99
- Verify no market data updates
- 500 executes on NYBX at 19.99; leaves 4100
- Verify no market data updates
- 4100 routed to DBK at 20.00
- 600 executes on DBK at 20.00; leaves 3500
- 3500 sent back to NYBX at 20.00
- Verify no market data updates
- 500 executes on NYBX at 20.00; leaves 3000
- Update of market data as indicated above
- 500 routed to PHLX at 19.99
- 500 executes on PHLX at 19.99; leaves 2500
- 2500 routed to DBK at 20.00
- 1000 executes on DBK at 20.00; leaves 1500
- 1500 sent back to NYBX at 20.00
- Verify no market data updates
- 500 executes on NYBX at 20.00; leaves 1000
- Verify no market data updates
- 500 placed on the NYBX book at 20.00
- 500 routed to NYSE Arca at 20.00
- 500 executes on NYSE Arca at 20.00; leaves 500

Scenario C: Same as Scenario A except that only 500 of the 1000 shares routed to PHLX are actually executed against the liquidity there, and the remaining 500 shares are returned unexecuted to the Facility

Under this scenario and the revised logic being proposed, the return of the 500 unexecuted shares from PHLX will cause the Facility to evaluate the market once again as indicated below to check for updated market data before placing the unexecuted volume on the NYBX book. As in Scenario A, the assumption being made is that no change in the state of the market is indicated by this interim market evaluation, so the 500 unexecuted shares are placed on the NYBX book at 20.00, joining the 1000 shares that were placed on the book at the time of the routing to the away markets and resulting in a residual buy order of 1500 shares at 20.00 on the NYBX book. Consequently, the complete outcome for this scenario is as follows:

Results:

- 5000 routed to DBK at 19.99
- 400 executes on DBK at 19.99; leaves 4600
- 4600 sent back to NYBX at 19.99
- Verify no market data updates
- 500 executes on NYBX at 19.99; leaves 4100
- Verify no market data updates
- 4100 routed to DBK at 20.00
- 600 executes on DBK at 20.00; leaves 3500
- 3500 sent back to NYBX at 20.00
- Verify no market data updates
- 500 executes on NYBX at 20.00; leaves 3000
- Verify no market data updates
- 1000 routed to PHLX at 20.00
- 1000 routed to NYSE Arca at 20.00
- 1000 placed on the NYBX book at 20.00
- 500 executes on PHLX at 20.00; leaves 2500
- 500 returns to NYBX from PHLX at 20.00
- Verify no market data updates
- 500 placed on the NYBX book at 20.00
- 1000 executes on NYSE Arca at 20.00; leaves 1500

Scenario D: Same as Scenario A except for the displayed quotes at PHLX and NYSE Arca, which are as follows:

PHLX (Sell orders):

2000 shares @ 20.00 (NBBO)

NYSE Arca (Sell orders):

2000 shares at 20.00

Under this scenario and the revised logic being proposed, the executions in the Facility and DBK would take place exactly as in Scenario A, leaving a residual of 3000 shares. As in Scenario A, the assumption is that no change in the state of the market is indicated by any interim market evaluation. Because the residual order size to be routed away is less than the total top-of-book available contra side liquidity of 4000 shares at the same price displayed on PHLX and NYSE Arca, a routing table would be used to determine which of those two markets would get a complete fill of its displayed contra side liquidity and which would only get a partial fill. In this example, if it is assumed that the routing table assigns a higher rating to PHLX for routing purposes, the following additional outcomes would result:

- 2000 executes on PHLX at 20.00
- 1000 executes on NYSE Arca at 20.00
- Fill is complete—no remaining shares available to be placed back on NYBX book

Consequently, the complete outcome for this scenario is as follows:

Results:

- 5000 routed to DBK at 19.99
- 400 executes on DBK at 19.99; leaves 4600
- 4600 sent back to NYBX at 19.99
- Verify no market data updates
- 500 executes on NYBX at 19.99; leaves 4100
- Verify no market data updates
- 4100 routed to DBK at 20.00
- 600 executes on DBK at 20.00; leaves 3500
- 3500 sent back to NYBX at 20.00
- Verify no market data updates
- 500 executes on NYBX at 20.00; leaves 3000
- Verify no market data updates
- 2000 routed to PHLX at 20.00
- 1000 routed to NYSE Arca at 20.00
- 2000 executes on PHLX at 20.00; leaves 1000
- 1000 executes on NYSE Arca at 20.00; leaves 0

In every instance under the proposed amendment, all available contra side liquidity on both DBK and NYBX must be exhausted before portions of any NYBX order are routed to away markets, except for those routings that take place (as under the current version of the Facility) to execute against protected quotations of automated trading centers that would otherwise be traded through.

B. The Sizes of All Available Top-of-Book Displayed Contra Side Quotations of Other Automated Trading Centers Will Be Incorporated Into the MTV Calculation

The second change to the Facility in the proposed amendment is a logical

consequence of the fact that available top-of-book contra side displayed liquidity at other automated market centers will be included in the revised routing logic as described above. Because such quotations will now be executed against if an NYBX order is sufficiently large, their size(s) should and will be included in the optional MTV calculation under the proposed amendment just as they would be if those same quotations were in the DBK or the NYBX book. Under the current version of NYBX, available top-of-book contra side liquidity on away markets is included in determining whether an MTV is met only if such quotations are protected quotations of automated trading centers that would otherwise be traded through, and if consideration of such quotations is not optionally restricted by the NYBX user.

Currently, when an NYBX user designates an optional MTV for an order, that user may elect to restrict the MTV calculation of the order to include *only* the contra side liquidity at the order's limit price or better in the Facility and the DBK, thereby excluding consideration of protected quotations of automated trading centers that would otherwise be traded through in determining whether the MTV is met. However, regardless of the designated MTV calculation, executions in or through the Facility will always route out to execute against the protected quotations of automated trading centers to avoid trade throughs in compliance with Regulation NMS. Similarly, the new version of NYBX under the proposed amendment will provide that an NYBX user may elect to restrict the MTV calculation of the order to exclude consideration of those available top-of-book contra side quotations of other automated trading centers that would *not* otherwise be traded through in determining whether an MTV is met. And, as is currently the case for NYBX orders that route out to execute with away market quotations in order to comply with Regulation NMS, NYBX orders for which the MTV is met will still be routed out to execute against those away market available top-of-book contra side quotations that would *not* otherwise be traded through, even if an NYBX user elects to restrict the MTV calculation of an order to exclude consideration of those away market quotations. In other words, an NYBX user will not have the ability to eliminate the routing to protected quotations of other automated trading centers under any circumstances, whether or not such routing is required by Regulation NMS.

The following example demonstrates how the MTV will be triggered under the proposed amendment. Assume the same NYBX evaluation as indicated in Scenario A above, including 1000 shares for sale at 20.00 being displayed at top-of-book by each of PHLX and NYSE Arca.

Scenario E: Buy 5000 shares at 20.00 (MTV = 2500)

As the Facility currently operates, the MTV of 2500 shares would not be triggered because only 2000 shares are available at the price or better in DBK and on the NYBX book combined, and we have assumed that there are no protected quotations at automated trading centers that would otherwise be traded through to count toward the MTV. Therefore, the order to buy 5000 shares at 20.00 would be placed on the NYBX book without any execution taking place. Under the proposed amendment, the total of 2,000 shares available at the price at PHLX and NYSE Arca would be included in the MTV calculation as well, resulting in an overall total of 4000 shares available for execution which exceeds the MTV threshold level of 2500 shares. At this point, the sequence of order execution would be exactly the same as in Scenario A above, with a residual buy order for 1000 shares at 20.00 placed on the NYBX book and top-of-book executions at PHLX and NYSE Arca of 1000 shares each.

* * * * *

In summary, the proposed amendment should result in (i) the immediate execution of additional orders that would otherwise sit on the NYBX book due to their MTVs not being triggered and (ii) the execution of more shares on those orders whose MTVs are triggered, due to the incorporation of additional available contra side liquidity at other market centers.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[6] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5)[7] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. More specifically, the Exchange believes that, because the proposed rule change will improve the quality of the market and the outcomes for investors by increasing the probability that a large order placed in the Facility will achieve a complete and timely fill by incorporating available contra side liquidity at other market centers, it will thereby contribute to perfecting the mechanism of a free and open market and a national market system and is also consistent with the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act a[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

The Exchange requested the Commission waive all or whatever part of the 30-day operative delay period is

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission waives the five-day pre-filing requirement in this case.

necessary to allow the Exchange to make the proposed rule change operative on December 7, 2009. The Commission hereby grants the Exchange's request and designates the filing operative as of December 7, 2009.[12] The Commission believes that such action is consistent with the protection of investors and the public interest, because the proposed rule language should result in (i) the immediate execution of additional orders that would otherwise sit on the NYBX book due to their MTVs not being triggered and (ii) the execution of more shares on those orders whose MTVs are triggered, due to the incorporation of additional available contra side liquidity at other market centers.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2009–121 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2009–121. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2009–121 and should be submitted on or before January 4, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–29631 Filed 12–11–09; 8:45 am]

BILLING CODE 8011–01–P

[12] For purposes of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61129; File No. SR–BX–2009–080]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 2330 and IM–2330 To Reflect Changes to Corresponding FINRA Rule

December 8, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 4, 2009, NASDAQ OMX BX, Inc. (the ''BX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b–4(f)(6) under the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[4] and Rule 19b–4 thereunder,[5] NASDAQ OMX BX, Inc. (''BX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend BX Rule 2330 and IM–2330 to reflect recent changes to a corresponding rule of the Financial Industry Regulatory Authority (''FINRA''). The text of the proposed rule change is below. Proposed new language is *italicized;* proposed deletions are in brackets: NASDAQ OMX BX RULES

* * * * *

2150. Customers' Securities or Funds

(a) Exchange Members and persons associated with a member shall comply with FINRA Rule 2150 as if such Rule were part of the Rules of the Exchange.

(b) Nothing in FINRA Rule 2150, as applied to Exchange members and their associated persons, shall be construed to authorize any Exchange member or associated person to act in a manner inconsistent with Section 11(a) of the Act.

IM–2150. Segregation of Customers' Securities

(a) Exchange Members and persons associated with a member shall comply with FINRA Interpretive Material 2150 as if such Rule were part of the Rules of the Exchange.

(b) For purposes of this Rule, references to Rule 2150 shall be construed as references to Equity Rule 2150.

* * * * *

[2330. Customers' Securities or Funds

(a) Exchange Members and persons associated with a member shall comply with NASD Rule 2330 as if such Rule were part of the Rules of the Exchange.

FINRA is in the process of consolidating certain NASD rules into a new FINRA rulebook. If the provisions of NASD Rule 2330 are transferred into the FINRA rulebook, then Equity Rule 2330 shall be construed to require Exchange members and persons associated with a member to comply with the FINRA rule corresponding to NASD Rule 2330 (regardless of whether such rule is renumbered or amended) as if such rule were part of the Rules of the Exchange.

(b) Nothing in NASD Rule 2330, as applied to Exchange members and their associated persons, shall be construed to authorize any Exchange member or associated person to act in a manner inconsistent with Section 11(a) of the Act.]

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[IM–2330. Segregation of Customers' Securities

(a) Exchange Members and persons associated with a member shall comply with NASD Interpretive Material 2330 as if such Rule were part of the Rules of the Exchange.

FINRA is in the process of consolidating certain NASD rules into a new FINRA rulebook. If the provisions of NASD Interpretive Material 2330 are transferred into the FINRA rulebook, then Equity Interpretive Material 2330 shall be construed to require Exchange members and persons associated with a member to comply with the FINRA rule corresponding to NASD Interpretive Material 2330 (regardless of whether such rule is renumbered or amended) as if such rule were part of the Rules of the Exchange.

(b) For purposes of this Rule, references to Rule 2330 shall be construed as references to Equity Rule 2330.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Many of BX's rules are based on rules of FINRA (formerly the National Association of Securities Dealers (''NASD'')). During 2008, FINRA embarked on an extended process of moving rules formerly designated as ''NASD Rules'' into a consolidated FINRA rulebook. In most cases, FINRA has renumbered these rules, and in some cases has substantively amended them. Accordingly, BX also proposes to initiate a process of modifying its rulebook to ensure that BX rules corresponding to FINRA/NASD rules continue to mirror them as closely as practicable. In some cases, it will not be possible for the rule numbers of BX rules to mirror corresponding FINRA rules, because existing or planned BX rules make use of those numbers. However, wherever possible, BX plans to update its rules to reflect changes to corresponding FINRA rules.

This filing addresses BX Rule 2330 entitled ''Customers' Securities or Funds'' and IM–2330 entitled ''Segregation of Customers' Securities.'' BX Rule 2330 and IM–2330 both make reference to NASD Rule 2330 entitled ''Improper Use of Customer's Securities or Funds; Prohibitions Against Guarantees and Sharing in Accounts.'' FINRA filed a proposed rule change, which will be effective December 14, 2009, to adopt NASD Rule 2330 as FINRA Rule 2150.[6] FINRA made minor changes to Rule 2150, specifically amending 2150(c). FINRA Rule 2150 prohibits members and associated person from: (a) Making improper use of a customer's securities or funds; (b) guaranteeing a customer against loss in connection with any securities transaction or in any securities account of the customer; and (c) sharing in the profits or losses in the customer's account except under certain limited conditions specified in the Rule. In addition, FINRA added Supplementary Information to Rule 2150 that codifies existing staff guidance clarifying that: (i) A ''guarantee'' extended to all holders of a particular security by an issuer as part of that security generally would not be subject to the prohibition against guarantees and that a permissible sharing arrangement remains subject to other applicable FINRA rules; (ii) the rule does not preclude a member from determining on an after-the-fact basis, to reimburse a customer for transaction losses, provided however that the member shall comply with all reporting requirements that may be applicable to such payment; (iii) the rule does not preclude a member from correcting a *bona fide* error; and (iv) the required written authorization(s) shall be preserved for a period of at least six years after the date the account is closed, which is consistent with the retention period under the Act for similar records.

BX is proposing to amend BX Rule 2330 and IM–2330 by renaming Rule 2330 to new Rule 2150 and renaming IM–2330 to new IM–2150, in order to incorporate by reference the FINRA rule. BX would delete current Rule 2330 and IM–2330. BX also proposes to amend the references to NASD Rule 2330 to instead state FINRA Rule 2150 in the new Rule 2150 and IM–2150 to reflect the change to the FINRA rules.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and with Sections 6(b)(5) of the Act,[8] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed changes will conform BX Rule 2330 and IM–2330 to recent changes made to a corresponding FINRA rule and rename Rule 2330 and IM–2330 to new Rule 2150 and new IM–2150, to promote application of consistent regulatory standards.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

[6] Securities Exchange Act Release No. 60701 (September 21, 2009), 74 FR 49425 (September 28, 2009) (SR–FINRA–2009–014).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–BX–2009–080.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2009–080. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2009–080 and should be submitted on or before January 4, 2010.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–29649 Filed 12–11–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61131; File No. SR–ISE–2009–101]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fee Changes

December 8, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 24, 2009, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to amend its Schedule of Fees regarding its Competitive Market Maker (''CMM'') Inactivity Fee. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), on the Commission's Web site at *http://www.sec.gov,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

ISE proposes to amend its Schedule of Fees regarding its CMM Inactivity Fee. Specifically, the Exchange proposes to amend its current CMM Inactivity Fee for any member who is not currently a market maker and acquires one or more CMM Trading Right by providing the Exchange the ability to waive this fee for up to three full calendar months.

ISE currently charges the owner[3] of a CMM membership an Inactivity Fee of $25,000 a month per trading right if the owner does not (i) itself operate the CMM membership, (ii) lease the CMM trading right to another member which operates the CMM membership, or (iii) avail itself to one of the exemptions specifically authorized in the Notes to the CMM Inactivity Fee on the Schedule of Fees.

The purpose of the CMM Inactivity Fee has always been to promote greater trading activity on the Exchange. The Exchange believes that anything short of full utilization of its trading rights has adverse consequences. Not only does the Exchange lose fee revenues that these trading rights would generate, the ISE market place loses liquidity that additional market making would provide. The Exchange, however, also recognizes that firms, and in particular firms that are new members of the Exchange, need time to ramp up their operations to the point where they are able to efficiently operate as a market maker. Under the Exchange's current fee schedule, a new market maker would be subject to an inactivity fee of $25,000 per Trading Right per month if that market maker is not able to commence operations immediately after purchasing the Trading Rights. The Exchange believes assessing this fee is a strong disincentive for any new member to acquire Trading Rights and become a market maker on the Exchange.

Thus, the Exchange proposes to amend its current CMM Inactivity Fee with respect to any member who acquires one or more CMM Trading Right by providing the Exchange the ability to waive this fee for up to three

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Note to the CMM Inactivity Fee on the Schedule of Fees provides that the fee applies to the owner of the CMM membership, unless the inactive CMM membership is subject to a lease that was approved by the Exchange prior to the effective date of the fee, in which case the fee would apply to the lessee.

full calendar months. The waiver, which would be granted by an Exchange official designated by the Exchange's Board of Directors, would only apply if the member purchasing the Trading Rights is not currently an ISE market maker and needs additional time to commence its operations on the Exchange as a market maker. The Exchange believes granting the waiver will provide new market makers sufficient time to become operationally ready.

This proposed fee change will be operative on December 1, 2009.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the ''Exchange Act'') for this proposed rule change is the requirement under Section 6(b)(4) that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. In particular, the proposed fee change will allow the Exchange to recoup lost revenue and encourage the timely operation of its CMM Trading Rights.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act [4] and Rule 19b–4(f)(2) [5] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–ISE–2009–101 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securitiesand Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–ISE–2009–101. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–ISE–2009–101 and should be submitted on or before January 4, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–29647 Filed 12–11–09; 8:45 am]

BILLING CODE 8011–01–P

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 19b–4(f)(2).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61128; File No. SR–NASDAQ–2009–106]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 2330 and IM–2330 To Reflect Changes to Corresponding FINRA Rule

December 8, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 4, 2009, The NASDAQ Stock Market LLC (the ''Exchange'' or ''NASDAQ'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b–4(f)(6) under the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[4] and Rule 19b–4 thereunder,[5] the NASDAQ Stock Market LLC (the ''Exchange'' or ''NASDAQ'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend NASDAQ Rule 2330 and IM–2330 to reflect recent changes to a corresponding rule of the Financial Industry Regulatory Authority (''FINRA''). The text of the proposed rule change is below. Proposed new language is *italicized;* proposed deletions are in brackets:

NASDAQ Stock Market Rules

* * * * *

2150. Customers' Securities or Funds

(a) Nasdaq Members and persons associated with a member shall comply with FINRA Rule 2150 as if such Rule were part of Nasdaq's Rules.

(b) Nothing in FINRA Rule 2150, as applied to Nasdaq members and their

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

associated persons, shall be construed to authorize any Nasdaq member or associated person to act in a manner inconsistent with Section 11(a) of the Act.

IM–2150. Segregation of Customers' Securities

(a) Nasdaq Members and persons associated with a member shall comply with FINRA Interpretive Material 2150 as if such Rule were part of Nasdaq's Rules.

(b) For purposes of this Rule, references to Rule 2150 shall be construed as references to Nasdaq Rule 2150.

* * * * *

[2330. Customers' Securities or Funds

(a) Nasdaq Members and persons associated with a member shall comply with NASD Rule 2330 as if such Rule were part of Nasdaq's Rules.

(b) Nothing in NASD Rule 2330, as applied to Nasdaq members and their associated persons, shall be construed to authorize any Nasdaq member or associated person to act in a manner inconsistent with Section 11(a) of the Act.]

[IM–2330. Segregation of Customers' Securities

(a) Nasdaq Members and persons associated with a member shall comply with NASD Interpretive Material 2330 as if such Rule were part of Nasdaq's Rules.

(b) For purposes of this Rule, references to Rule 2330 shall be construed as references to Nasdaq Rule 2330.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Many of NASDAQ's rules are based on rules of FINRA (formerly the National Association of Securities Dealers (''NASD'')). During 2008, FINRA embarked on an extended process of moving rules formerly designated as ''NASD Rules'' into a consolidated FINRA rulebook. In most cases, FINRA has renumbered these rules, and in some cases has substantively amended them. Accordingly, NASDAQ also proposes to initiate a process of modifying its rulebook to ensure that NASDAQ rules corresponding to FINRA/NASD rules continue to mirror them as closely as practicable. In some cases, it will not be possible for the rule numbers of NASDAQ rules to mirror corresponding FINRA rules, because existing or planned NASDAQ rules make use of those numbers. However, wherever possible, NASDAQ plans to update its rules to reflect changes to corresponding FINRA rules.

This filing addresses NASDAQ Rule 2330 entitled ''Customers' Securities or Funds'' and IM–2330 entitled ''Segregation of Customers' Securities.'' NASDAQ Rule 2330 and IM–2330 both make reference to NASD Rule 2330 entitled ''Improper Use of Customer's Securities or Funds; Prohibitions Against Guarantees and Sharing in Accounts.'' FINRA filed a proposed rule change, which will be effective December 14, 2009, to adopt NASD Rule 2330 as FINRA Rule 2150.[6] FINRA made minor changes to Rule 2150, specifically amending 2150(c). FINRA Rule 2150 prohibits members and associated person from: (a) Making improper use of a customer's securities or funds; (b) guaranteeing a customer against loss in connection with any securities transaction or in any securities account of the customer; and (c) sharing in the profits or losses in the customer's account except under certain limited conditions specified in the Rule. In addition, FINRA added Supplementary Information to Rule 2150 that codifies existing staff guidance clarifying that: (i) A ''guarantee'' extended to all holders of a particular security by an issuer as part of that security generally would not be subject to the prohibition against guarantees and that a permissible sharing arrangement remains subject to other applicable FINRA rules; (ii) the rule does not preclude a member from determining on an after-the-fact basis, to reimburse a customer for transaction losses, provided however that the member shall comply with all reporting requirements that may be applicable to such payment; (iii) the rule does not preclude a member from correcting a *bona fide* error; and (iv) the required written authorization(s) shall be preserved for a period of at least six years after the date the account is closed, which is consistent with the retention period under the Act for similar records.

NASDAQ is proposing to amend NASDAQ Rule 2330 and IM–2330 by renaming Rule 2330 to new Rule 2150 and renaming IM–2330 to new IM–2150, in order to incorporate by reference the FINRA rule. NASDAQ would delete current Rule 2330 and IM–2330. NASDAQ also proposes to amend the references to NASD Rule 2330 to instead state FINRA Rule 2150 in the new Rule 2150 and IM–2150 to reflect the change to the FINRA rules.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and with Sections 6(b)(5) of the Act,[8] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed changes will conform NASDAQ Rule 2330 and IM–2330 to recent changes made to a corresponding FINRA rule, to promote application of consistent regulatory standards.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

[6] Securities Exchange Act Release No. 60701 (September 21, 2009), 74 FR 49425 (September 28, 2009) (SR–FINRA–2009–014).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2009–106 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2009–106. This file number should be included on the subject line if e-mail is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2009–106 and should be submitted on or before January 4, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc.E9–29648 Filed 12–11–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61130; File No. SR–NYSE–2009–118]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Exclude Early Closing Days From Certain ADV Calculations

December 8, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 1, 2009, New York Stock Exchange LLC (the ''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its price list to provide that data from days on which the Exchange closes early will not be included in calculations of average daily trading volume for the applicable month in determining member organizations' qualification for pricing tiers and qualification of Supplemental Liquidity Providers (''SLPs'') for liquidity credits. The text of the proposed rule change is available on the Exchange's Web site (*http://www.nyse.com*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The NYSE charges member organizations a lower transaction fee per share when they provide liquidity with respect to specified levels of average daily trading volume (''ADV'') in the applicable month. In addition, the Exchange pays credits to SLPs for providing liquidity to the Exchange and, in doing so, pays higher credits to SLPs that provide liquidity in excess of specified levels of ADV for the applicable month. The Exchange proposes to exclude trading volume data from those days on which it closes early from calculations of ADV used in determining member organizations' and SLPs' qualification for more favorable transaction pricing and liquidity credit tiers. The Exchange closes early on a small number of trading days in the course of the year, which are generally the trading days before or after a public holiday (*e.g.,* Christmas Eve and the day after Thanksgiving). As the trading on those days occurs over a shorter time period and is typically very light, the Exchange believes that including it in ADV calculations distorts ADV for the applicable month. Consequently, the Exchange believes it is appropriate to exclude days on which it closes early from ADV calculations. The Exchange notes that it will continue to include early closing days in ADV calculations when determining whether securities are ''More Active Securities'' or ''Less Active Securities'' for purposes of determining which rebate tier Designated Market Makers qualify for when adding liquidity to the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

the provisions of Section 6[3] of the Act in general and Section 6(b)(4) of the Act[4] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The Exchange believes that the proposal does not constitute an inequitable allocation of dues, fees and other charges, as ADV will be calculated on the same basis for purposes of determining the qualification of all member organizations for more favorable transaction pricing and liquidity credit tiers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[5] of the Act and Rule 19b–4(f)(2)[6] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2009–118 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2009–118. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro/shtml*). Copies of the submission,[7] all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549–1090, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File number SR–NYSE–2009–118 and should be submitted on or before January 4, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–29632 Filed 12–11–09; 8:45 am]

BILLING CODE 8011–01–P

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(4).

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(2).

[7] The text of the proposed rule change is available at the Commission's Web site (*http://www.sec.gov*).

[8] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 6849]

Culturally Significant Objects Imported for Exhibition Determinations: ''Renoir in the 20th Century''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Renoir in the 20th Century,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Los Angeles County Museum of Art, Los Angeles, Ca, from on or about February 14, 2010, until on or about May 9, 2010; at the Philadelphia Museum of Art, Philadelphia, PA, from on or about June 12, 2010, to on or about September 5, 2010; and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/632–6473). The address is U.S. Department of State, SA–5, L/PD, Fifth Floor, Washington, DC 20522–0505.

Dated: December 1, 2009.

Maura M. Pally,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. E9–29716 Filed 12–11–09; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6850]

Culturally Significant Object Imported for Exhibition Determinations: ''Portrait of a Lady''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of

October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the object to be included in the exhibition ''Portrait of a Lady,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at the Art Institute of Chicago, Chicago, IL, from on or about January 1, 2010, until on or about December 31, 2011, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/632–6473). The address is U.S. Department of State, SA–5, L/PD, Fifth Floor, Washington, DC 20522–0505.

Dated: December 3, 2009.

Maura M. Pally,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. E9–29717 Filed 12–11–09; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[PUBLIC NOTICE 6848]

Culturally Significant Objects Imported for Exhibition Determinations: ''Henri Cartier-Bresson: The Modern Century''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Henri Cartier-Bresson: The Modern Century,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Museum of Modern Art, New York, from on or about April 11, 2010, until on or about June 28, 2010; the Art Institute of Chicago, from on or about July 24, 2010, until on or about October 3, 2010; the San Francisco Museum of Modern Art, from on or about November 6, 2010, until on or about January 30, 2011; the High Museum of Art, Atlanta, from on or about February 16, 2011, until on or about May 15, 2011, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: December 3, 2009.

Maura M. Pally,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. E9–29719 Filed 12–11–09; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub-No. 315X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Chemung County, NY

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 1.85-mile line of railroad between milepost KV 249.55 and milepost KV 251.40 in Elmira, Chemung County, NY. The line traverses United States Postal Service Zip Codes 14901 and 14903.

NSR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment–Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 13, 2010, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 24, 2009. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 4, 2010, with: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to NSR's representative: James R. Paschall, Senior General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NSR has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 18, 2009. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 245–0305. Assistance for the hearing impaired is available through the

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which currently is set at $1,500. *See* 49 CFR 1002.2(f)(25).

Federal Information Relay Service (FIRS) at 1–800–877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by December 14, 2010, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at: ''*http://www.stb.dot.gov.*''

Decided: December 8, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. E9–29670 Filed 12–11–09; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–1051X]

Gloster Southern Railroad Company LLC—Discontinuance of Service Exemption—in Amite and Wilkinson Counties, MS and East Feliciana Parish, LA

Gloster Southern Railroad Company LLC (GLSR) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over a 32.7-mile line of railroad between milepost 0.0, at Slaughter, LA, and milepost 32.7, at Gloster, MS, in East Feliciana Parish, LA, and Wilkinson and Amite Counties, MS. The line traverses United States Postal Service Zip Codes 39631, 39638, 70730, 70761, and 70777.

GLSR has certified that: (1) No traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 13, 2010,[1] unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2),[2] must be filed by December 24, 2009.[3] Petitions to reopen must be filed by January 5, 2010, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to GLSR's representative: Fritz R. Kahn, Fritz R. Kahn, P.C., 1920 N Street, NW. (8th floor), Washington, DC 20036.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Board decisions and notices are available on our Web site at: *http://www.stb.dot.gov*.

Decided: December 8, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. E9–29638 Filed 12–11–09; 8:45 am]

BILLING CODE 4915–01–P

[1] GLSR submitted its original notice of exemption on October 27, 2009, without an affidavit certifying newspaper publication as required under 49 CFR 1105.12. On November 24, 2009, GLSR filed such an affidavit. Accordingly, the file date for this notice of exemption is November 24, 2009.

[2] Each OFA must be accompanied by the filing fee, which currently is set at $1,500. *See* 49 CFR 1002.2(f)(25).

[3] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327, and other Federal agencies, such as U.S. Army Corps of Engineers (USACE) that are using this NEPA document in its decisionmaking.

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans, and applicable Federal agencies that are final within the meaning of 23 U.S.C. 139(*l*)(1). The actions relate to a proposed highway project, State Route 152, Los Banos Bypass Project postmiles 16.0 to 24.8 in Merced County, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before June 14, 2010. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Gail Miller; Acting Environmental Office Chief; Central Region Environmental North Office, 2015 E. Shields Ave, Fresno, CA 93726; 8 a.m.–5 p.m., 559–243–8274, *gail_miller@dot.ca.gov*.

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the FHWA assigned, and Caltrans assumed environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans, has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) approving the following highway project in the State of California: The Los Banos Bypass Project would build a four-lane freeway within an ultimate six-lane right-of-way. Alternative 3M, the chosen alternative, would proceed northeast from a western interchange and cross Badger Flat Road. The alignment would range from approximately 2,055 to 3,266 feet south of Henry Miller Road. The alignment would then dip southeast to run between the San Luis and Santa Fe canals. An interchange is proposed near

Santa Fe Grade Road post mile 23.5, where the bypass would connect with the existing State Route 152. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) for the project, approved on June 25, 2007, in the FHWA Record of Decision (ROD) issued on September 14, 2009 and in other documents in the FHWA project records. The FEIS, ROD, and other project records are available by contacting Caltrans at the address provided above.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; and Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].

2. Air: Clean Air Act [42 U.S.C. 7401–7671(q)].

3. Wildlife: Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; and Migratory Bird Treaty Act [16 U.S.C. 703–712].

4. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archaeological and Historic Preservation Act [16 U.S.C. 469–469c]; Archaeological Resources Protection Act of 1979 [16 U.S.C. 470aa *et seq*]; and Native American Graves Protection and Repatriation Act [25 U.S.C. 3001–3013].

5. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; Farmland Protection Policy Act [7 U.S.C. 4201–4209]; and The Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended.

6. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of the Cultural Environment; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; and E.O. 13112 Invasive Species.

7. Wetlands and Water Resources: Safe Drinking Water Act [42 U.S.C. 300(f)–300(j)(6)]; and Wetlands Mitigation [23 U.S.C. 103(b)(6)(m) and 133(b)(11)].

8. AB 32 sets the same overall greenhouse gas emissions reduction goals while further mandating that the California Air Resources Board create a plan, which includes market mechanisms, and implement rules to achieve ''real, quantifiable, cost-effective reductions of greenhouse gases.''

9. Executive Order S–20–06 directs state agencies to begin implementing AB 32, including the recommendations made by the state's Climate Action Team.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1)

Issued on: December 8, 2009.

Cindy Vigue,

Director, State Programs, Federal Highway Administration, Sacramento, California.

[FR Doc. E9–29636 Filed 12–11–09; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA–1999–5578; FMCSA–1999–6480; FMCSA–2001–9561; FMCSA–2003–15892; FMCSA–2007–27897; FMCSA–2007–28695]

Qualification of Drivers; Exemption Renewals; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA previously announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 19 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov*

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The comment period ended on November 18, 2009 (74 FR 53581).

Discussion of Comments

FMCSA received no comments in this proceeding.

Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 19 renewal applications, FMCSA renews the Federal vision exemptions for Lauren C. Allen, Tracey A. Ammons, David N. Cleveland, Randy B. Combs, Robert L. Cross, Jr., James D. Davis, Thomas E. Dixon, Edward J. Genovese, Dewayne E. Harms, Mark D. Kraft, David F. LeClerc, Charles D. Oestreich, Carson E. Rohrbaugh, Donald J. Snider, John A. Sortman, Jesse L. Townsend, James A. Welch, Edward W. Yeates, Jr., and Michael E. Yount.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: December 4, 2009.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E9–29701 Filed 12–11–09; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–26367]

Motor Carrier Safety Advisory Committee; Request for Nominations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Request for Nominations to the Motor Carrier Safety Advisory Committee (MCSAC).

SUMMARY: The FMCSA solicits nominations for interested persons in the safety enforcement, safety advocacy, and motor carrier industry (including labor unions) communities to serve on the MCSAC. The MCSAC is authorized by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Public Law 109–59. The committee was established by charter on September 8, 2006; the charter was renewed on September 8, 2008. The Committee is charged with providing advice and recommendations to the FMCSA Administrator on the needs, objectives, plans, approaches, content, and accomplishments of Federal motor carrier safety programs and Federal motor carrier safety regulations. More information about the MCSAC, including reports, meeting minutes and membership, can be found on the MCSAC Web site at *http://mcsac.fmcsa.dot.gov/.*

DATES: Nominations for the MCSAC must be received on or before January 13, 2010.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Kostelnik, Acting Chief, Strategic Planning and Program Evaluation Division, Office of Policy Plans and Regulation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001, 202–366–5721, *Jack.Kostelnik@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 4144 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59, August 10, 2005), required the Secretary to establish the MCSAC. The Committee provides advice and recommendations to the Administrator of FMCSA on the needs, objectives, plans, approaches, content, and accomplishments of motor carrier safety programs and motor carrier safety regulations. Under its charter (*http://mcsac/about.htm*), the Committee may be comprised of up to 20 members appointed by the Administrator for up to two-year terms. They are selected from among individuals who are not employees of FMCSA and who are specially qualified to serve on the Committee based on their education, training, or experience. The members include representatives of the motor carrier industry, safety advocates, and safety enforcement officials. Representatives of a single enumerated interest group may not constitute a majority of the Committee members. The Administrator designates a chairman of the Committee from among the members. Committee members must not be officers or employees of the Federal Government and serve without pay.

The White House has issued guidance to executive agencies and departments that Federally registered lobbyists not be appointed to agency advisory boards and commissions. Pursuant to this guidance, FMCSA will not consider for appointment to the MCSAC any individual who is subject to the registration and reporting requirements of the Lobbying Disclosure Act. 2 U.S.C. 1605.

The Administrator may allow a member, when attending meetings of the Committee or a subcommittee, reimbursement of expenses authorized under Section 5703 of Title 5, United States Code and the Federal Travel Regulation, 41 CFR Part 301, relating to per diem, travel and transportation.

The FMCSA anticipates calling Committee meetings at least four times each year. Meetings are open to the general public, except as provided under the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2). Notice of each meeting is published in the **Federal Register** at least 15 calendar days prior to the date of the meeting.

II. Request for Nominations

The FMCSA seeks nominations for membership to the MCSAC from representatives of the safety enforcement, safety advocacy, industry (including labor unions) sectors with specialized experience, education, or training in commercial motor vehicle issues. As allowed under the charter, the Agency is increasing the membership. The Agency is required under FACA to appoint members of diverse views and interests to ensure the committee is balanced with appropriate consideration of background. All Committee members must be able to attend three to four meetings each year in person, or by teleconference. Interested persons should have a commitment to transportation safety, knowledge of transportation issues, experience on panels that deal with transportation safety and a record of collaboration and professional experience in commercial motor vehicle safety issues. For nomination information or a nomination application, please contact Jack Kostelnik at 202–366–5721, or by e-mail at *Jack.Kostelnik@dot.gov.* Nominations must be received on or January 13, 2010.

Issued on: December 8, 2009.

Anne S. Ferro,

Administrator.

[FR Doc. E9–29700 Filed 12–11–09; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF VETERANS AFFAIRS

Project Better Respiratory Equipment Using Advanced Technologies for Healthcare Employees (B.R.E.A.T.H.E.)

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The National Center for Occupational Health and Infection Control, [administered by the Office of Public Health and Environmental Hazards, Veterans Health Administration (VHA), Department of Veterans Affairs (VA)], is seeking to partner with commercial organizations that have respirator design and manufacturing capabilities through a Cooperative Research and Development Agreement (CRADA), under the authority of the Federal Technology Transfer Act of 1986, Public Law 99–502, 100 Stat. 1785 (codified as amended in scattered sections of 15 U.S.C. (the FTTA). The CRADA is on a research endeavor called Better Respiratory Equipment using Advanced Technologies for Healthcare Employees (or Project B.R.E.A.T.H.E.) that aims to develop a new respirator for health care workers. The genesis and emphasis of Project B.R.E.A.T.H.E. grew from recommendations issued by the Institute of Medicine in November 2007 in its report *Preparing for an Influenza Pandemic: Personal Protective Equipment for Healthcare Workers,* which articulates the next steps to be taken toward better respiratory protection for health care workers.

SUPPLEMENTARY INFORMATION: The Project B.R.E.A.T.H.E. Working Group constitutes an interagency effort of the U.S. Federal Government, initiated and chaired by VA and co-chaired by the National Institute for Occupational Safety and Health (NIOSH), in the Centers for Disease Control and Prevention, the Department of Health

and Human Services. This multi-disciplinary team had a broad range of expertise, including pandemic and emergency preparedness, infectious disease medicine and epidemiology, respirator and personal protective equipment policy and regulation, occupational and environmental medicine, respirator and materials science, infection control, respirator physiology, physics, and biosecurity. The purpose of the Working Group is to bring a new respirator to the U.S. marketplace for health care workers using a government-academic-private partnership development model. During the first phase of Project B.R.E.A.T.H.E., a working group representing nine Federal agencies was convened and produced 28 consensus recommendations that, if implemented, would be expected to improve the function and utility of respiratory protective equipment used by health care workers employed by VHA and beyond. The consensus recommendations comprise desirable characteristics of a respirator, and respiratory protection programs, which fall into one of four (4) actionable categories:

- Respirators should perform their intended functions effectively and safely.
- Respirators should support, not interfere with, occupational activities.
- Respirators should be comfortable and tolerable.
- Respiratory protective programs should comply with Federal standards and guidelines, state regulations, and local policies.

Under the CRADA, the duties of the Federal Government will include the following:

- the National Institute for Occupational Safety and Health (NIOSH) will evaluate, to the extent possible, the respirator prototype(s), to determine whether the respirator under evaluation meets or exceeds the performance requirements identified in the consensus recommendations.
- VA's Office of Public Health and Environmental Hazards will seek the collective expertise of some or all of the Project B.R.E.A.T.H.E. Working Group members regarding optimal product development.
- VA's National Center for Occupational Health and Infection Control will pursue, to the extent possible, clinical testing of resulting respirator prototype(s), including feedback from health care workers.

VA is seeking to identify commercial organizations with the respirator design and manufacturing capabilities to construct a new respirator, based on the aforementioned characteristics. Collaboration will be made via a CRADA under the authority of the FTTA. 15 U.S.C. 3710a. Under the FTTA, no Federal funds may be provided to the collaborator, but the Federal laboratory is authorized to grant to the collaborating party a license or an assignment to inventions made under the CRADA.

Resource constraints may limit the number of candidate organizations that may be included and/or the extent of government supplied testing in this research program. VA will select one or more declared partnering candidates with respirator design and commercial manufacturing capabilities using the following criteria:

(1) The candidate organization has the capability to develop a new respirator prototype(s) utilizing advanced technologies within 6 to 12 months;

(2) The candidate organization has the resources, or access to the technological resources, to construct the desired new respirator prototype(s) through commercial models.

(3) The candidate organization has the capabilities to mass produce the successful respirator model within 6 months of final pre-commercial model approval; and

(4) The candidate organization has prior experience with, and received prior certification from, NIOSH for respiratory protection products.

Candidate organizations will be evaluated based on their capability to incorporate the identified consensus characteristics into the prototype(s) and meet the established criteria. Candidates selected most likely will be requested to enter into a CRADA with VA and/or other Federal agencies. In considering candidates, special consideration will be given to small business firms and consortia involving small business firms; and preference will be given to businesses located in the United States which agree that products embodying inventions made under the CRADA will be manufactured substantially in the United States. 15 U.S.C. 3710a(c)(4). This announcement does not obligate VA to enter into a contractual agreement with any respondents. VA reserves the right to establish a partnership based on scientific analysis and capabilities found by way of this announcement or other searches, if determined to be in the best interest of the government.

Discomfort and intolerance were frequent complaints of health care workers in Toronto, Ontario, Canada who wore respiratory protection during the 2003 Severe Acute Respiratory Syndrome crisis. During the outbreak, many Canadian public health organizations advised health care workers to use respiratory protection throughout the course of their work shifts, which often lasted 12 hours or longer. Notwithstanding the ostensible protection provided by respirators, workers complained about headaches, facial heat and pressure, shortness of breath, interference with occupational duties, among other problems associated with their use. Respirator-associated discomfort and occupational interference were viewed as significant limiting factors in work performance. Concerns have been raised about the same or similar events occurring in the U.S. during future epidemics.

In 2006, the National Personal Protective Technology Laboratory at NIOSH made a request to the Institute of Medicine for a review of personal protective equipment, with the explicit purpose of recommending how to best protect health care workers during an influenza pandemic. In its report, *Preparing for an Influenza Pandemic: Personal Protective Equipment for Healthcare Workers,* the Institute of Medicine noted a conspicuous lack of evidence behind respirator protective measures, including minimal attention placed on the development of equipment meeting the unique needs of the health care workforce. The Institute of Medicine recommended revisiting elemental aspects of respirator design and development, including distinct attention to respirators tailored to the jobs performed by health care workers, and pursuing an evidence-based approach to equipment design to the extent that this is possible. Further, the Report stressed the need for urgent action, emphasizing that the next influenza pandemic could occur in the near future.

An extensive research network and immense health care system make VHA uniquely poised to marshal the development of one or more new respirators to the U.S. marketplace in partnership with other Federal partners. VA hospitals should provide for an excellent test environment to assess and guide prototype design, development and revision. VA health care workers, who stand to receive the most benefit from a new respirator, are poised to assist with development. The Nation's VA medical centers employ approximately 118,000 health care workers who wear and discard approximately 1.6 million respirators per year at its 900+ outpatient clinics, 150+ hospitals and some 136 nursing homes. Provision of a safe workplace where health care workers can carry-out their occupational duties in a secure

environment without undue risk, during both periods of routine operations and times of crisis, is mission critical.

DATES: Submit letters of interest within 30 days after the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Interested commercial organizations with respirator design and manufacturing capabilities should submit a letter of interest with information about their capabilities to: Attention: Kimberly Rumping, The National Center for Occupational Health and Infection Control, Office of Public Health and Environmental Hazards, Veterans Health Administration, 1601 SW Archer Road (151B), Gainesville, Florida 32608, E-mail: *Kimberly.Rumping@va.gov.*

Approved: December 8, 2009.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

[FR Doc. E9–29709 Filed 12–11–09; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Monday,
December 14, 2009

Part II

The President

Executive Order 13522—Creating Labor-Management Forums to Improve Delivery of Government Services

Memorandum of December 9, 2009—Medicare Demonstration to Test Medical Homes in Federally Qualified Health Centers

Federal Register
Vol. 74, No. 238
Monday, December 14, 2009

Presidential Documents

Title 3—

The President

Executive Order 13522 of December 9, 2009

Creating Labor-Management Forums to Improve Delivery of Government Services

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish a cooperative and productive form of labor-management relations throughout the executive branch, it is hereby ordered as follows:

Section 1. *Policy.* Federal employees and their union representatives are an essential source of front-line ideas and information about the realities of delivering Government services to the American people. A nonadversarial forum for managers, employees, and employees' union representatives to discuss Government operations will promote satisfactory labor relations and improve the productivity and effectiveness of the Federal Government. Labor-management forums, as complements to the existing collective bargaining process, will allow managers and employees to collaborate in continuing to deliver the highest quality services to the American people. Management should discuss workplace challenges and problems with labor and endeavor to develop solutions jointly, rather than advise union representatives of predetermined solutions to problems and then engage in bargaining over the impact and implementation of the predetermined solutions.

The purpose of this order is to establish a cooperative and productive form of labor-management relations throughout the executive branch.

Sec. 2. *The National Council on Federal Labor-Management Relations.* There is established the National Council on Federal Labor-Management Relations (Council).

(a) **Membership.** The Council shall be composed of the following members appointed or designated by the President:

(i) the Director of the Office of Personnel Management (OPM) and Deputy Director for Management of the Office of Management and Budget (OMB), who shall serve as Co-Chairs of the Council;
(ii) the Chair of the Federal Labor Relations Authority;
(iii) a Deputy Secretary or other officer with department- or agency-wide authority from each of five executive departments or agencies not otherwise represented on the Council, who shall serve for terms of 2 years;
(iv) the President of the American Federation of Government Employees, AFL-CIO;
(v) the President of the National Federation of Federal Employees;
(vi) the President of the National Treasury Employees Union;
(vii) the President of the International Federation of Professional and Technical Engineers, AFL-CIO;
(viii) the heads of three other labor unions that represent Federal employees and are not otherwise represented on the Council, who shall serve for terms of 2 years;
(ix) the President of the Senior Executives Association; and
(x) the President of the Federal Managers Association.

(b) **Responsibilities and Functions.** The Council shall advise the President on matters involving labor-management relations in the executive branch. Its activities shall include, to the extent permitted by law:

(i) supporting the creation of department- or agency-level labor-management forums and promoting partnership efforts between labor and management in the executive branch;

(ii) developing suggested measurements and metrics for the evaluation of the effectiveness of the Council and department or agency labor-management forums in order to promote consistent, appropriate, and administratively efficient measurement and evaluation processes across departments and agencies;

(iii) collecting and disseminating information about, and providing guidance on, labor-management relations improvement efforts in the executive branch, including results achieved;

(iv) utilizing the expertise of individuals both within and outside the Federal Government to foster successful labor-management relations, including through training of department and agency personnel in methods of dispute resolution and cooperative methods of labor-management relations;

(v) developing recommendations for innovative ways to improve delivery of services and products to the public while cutting costs and advancing employee interests;

(vi) serving as a venue for addressing systemic failures of department- or agency-level forums established pursuant to section 3 of this order; and

(vii) providing recommendations to the President for the implementation of several pilot programs within the executive branch, described in section 4 of this order, for bargaining over subjects set forth in 5 U.S.C. 7106(b)(1).

(c) **Administration.**

(i) The Co-Chairs shall convene and preside at meetings of the Council, determine its agenda, and direct its work.

(ii) The Council shall seek input from nonmember executive departments and agencies, particularly smaller agencies. It also may, from time to time, invite persons from the private and public sectors to submit information. The Council shall also seek input from Federal manager and professional associations, companies, nonprofit organizations, State and local governments, Federal employees, and customers of Federal services, as needed.

(iii) To the extent permitted by law and subject to the availability of appropriations, OPM shall provide such facilities, support, and administrative services to the Council as the Director of OPM deems appropriate.

(iv) Members of the Council shall serve without compensation for their work on the Council, but may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Government service (5 U.S.C. 5701–5707), consistent with the availability of funds.

(v) The heads of executive departments and agencies shall, to the extent permitted by law, provide to the Council such assistance, information, and advice as the Council may require for purposes of carrying out its functions.

(vi) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.), may apply to the Council, any functions of the President under that Act, except that of reporting to the Congress, shall be performed by the Director of OPM in accordance with the guidelines that have been issued by the Administrator of General Services.

(d) **Termination.** The Council shall terminate 2 years after the date of this order unless extended by the President.

Sec. 3. *Implementation of Labor-Management Forums Throughout the Executive Branch.*

(a) The head of each executive department or agency that is subject to the provisions of the Federal Service Labor-Management Relations Act (5 U.S.C. 7101 *et seq.),* or any other authority permitting employees of such department or agency to select an exclusive representative shall, to the extent permitted by law:

(i) establish department- or agency-level labor-management forums by creating labor-management committees or councils at the levels of recognition and other appropriate levels agreed to by labor and management, or adapting existing councils or committees if such groups exist, to help identify problems and propose solutions to better serve the public and agency missions;

(ii) allow employees and their union representatives to have predecisional involvement in all workplace matters to the fullest extent practicable, without regard to whether those matters are negotiable subjects of bargaining under 5 U.S.C. 7106; provide adequate information on such matters expeditiously to union representatives where not prohibited by law; and make a good-faith attempt to resolve issues concerning proposed changes in conditions of employment, including those involving the subjects set forth in 5 U.S.C. 7106(b)(1), through discussions in its labor-management forums; and

(iii) evaluate and document, in consultation with union representatives and consistent with the purposes of this order and any further guidance provided by the Council, changes in employee satisfaction, manager satisfaction, and organizational performance resulting from the labor-management forums.

(b) Each head of an executive department or agency in which there exists one or more exclusive representatives shall, in consultation with union representatives, prepare and submit for approval, within 90 days of the date of this order, a written implementation plan to the Council. The plan shall:

(i) describe how the department or agency will conduct a baseline assessment of the current state of labor relations within the department or agency;

(ii) report the extent to which the department or agency has established labor-management forums, as set forth in subsection (a)(i) of this section, or may participate in the pilot projects described in section 4 of this order;

(iii) address how the department or agency will work with the exclusive representatives of its employees through its labor-management forums to develop department-, agency-, or bargaining unit-specific metrics to monitor improvements in areas such as labor-management satisfaction, productivity gains, cost savings, and other areas as identified by the relevant labor-management forum's participants; and

(iv) explain the department's or agency's plan for devoting sufficient resources to the implementation of the plan.

(c) The Council shall review each executive department or agency implementation plan within 30 days of receipt and provide a recommendation to the Co-Chairs as to whether to certify that the plan satisfies all requirements of this order. Plans that are determined by the Co-Chairs to be insufficient will be returned to the department or agency with guidance for improvement and resubmission within 30 days. Each department or agency covered by subsection (b) of this section must have a certified implementation plan in place no later than 150 days after the date of this order, unless the Co-Chairs of the Council authorize an extension of the deadline.

Sec. 4. *Negotiation over Permissive Subjects of Bargaining.*

(a) In order to evaluate the impact of bargaining over permissive subjects, several pilot projects of specified duration shall be established in which some executive departments or agencies elect to bargain over some or all of the subjects set forth in 5 U.S.C. 7106(b)(1) and waive any objection to participating in impasse procedures set forth in 5 U.S.C. 7119 that is based on the subjects being permissive. The Council shall develop recommendations for establishing the pilot projects, including (i) recommendations for evaluating such pilot projects on the basis, among other things, of their impacts on organizational performance, employee satisfaction, and labor relations of the affected departments or agencies; (ii) recommended methods for evaluating the effectiveness of dispute resolution procedures

adopted and followed in the course of the pilot projects; and (iii) a recommended timeline for expeditious implementation of the pilot programs.

(b) The Council shall present its recommendations to the President within 150 days after the date of this order.

(c) No later than 18 months after implementation of the pilot projects, the Council shall submit a report to the President evaluating the results of the pilots and recommending appropriate next steps with respect to agency bargaining over the subjects set forth in 5 U.S.C. 7106(b)(1).

Sec. 5. *General Provisions.*

(a) Nothing in this order shall abrogate any collective bargaining agreements in effect on the date of this order.

(b) Nothing in this order shall be construed to limit, preclude, or prohibit any head of an executive department or agency from electing to negotiate over any or all of the subjects set forth in 5 U.S.C. 7106(b)(1) in any negotiation.

(c) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to an executive department, agency, or the head thereof; or

(ii) functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(d) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(e) This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right to administrative or judicial review, or any other right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE,
December 9, 2009.

[FR Doc. E9–29781
Filed 12–11–09; 8:45 am]
Billing code 3195–W0–P

Presidential Documents

Memorandum of December 9, 2009

Medicare Demonstration to Test Medical Homes in Federally Qualified Health Centers

Memorandum for the Secretary of Health And Human Services

My Administration is committed to building a high-quality, efficient health care system and improving access to health care for all Americans. Health centers are a vital part of the health care delivery system. For more than 40 years, health centers have served populations with limited access to health care, treating all patients regardless of ability to pay. These include low-income populations, the uninsured, individuals with limited English proficiency, migrant and seasonal farm workers, individuals and families experiencing homelessness, and individuals living in public housing. There are over 1,100 health centers across the country, delivering care at over 7,500 sites. These centers served more than 17 million patients in 2008 and are estimated to serve more than 20 million patients in 2010.

The American Recovery and Reinvestment Act of 2009 (Recovery Act) provided $2 billion for health centers, including $500 million to expand health centers' services to over 2 million new patients by opening new health center sites, adding new providers, and improving hours of operations. An additional $1.5 billion is supporting much-needed capital improvements, including funding to buy equipment, modernize clinic facilities, expand into new facilities, and adopt or expand the use of health information technology and electronic health records.

One of the key benefits health centers provide to the communities they serve is quality primary health care services. Health centers use interdisciplinary teams to treat the ''whole patient'' and focus on chronic disease management to reduce the use of costlier providers of care, such as emergency rooms and hospitals.

Federally qualified health centers provide an excellent environment to demonstrate the further improvements to health care that may be offered by the medical homes approach. In general, this approach emphasizes the patient's relationship with a primary care provider who coordinates the patient's care and serves as the patient's principal point of contact for care. The medical homes approach also emphasizes activities related to quality improvement, access to care, communication with patients, and care management and coordination. These activities are expected to improve the quality and efficiency of care and to help avoid preventable emergency and inpatient hospital care. Demonstration programs establishing the medical homes approach have been recommended by the Medicare Payment Advisory Commission, an independent advisory body to the Congress.

Therefore, I direct you to implement a Medicare Federally Qualified Health Center Advanced Primary Care Practice demonstration, pursuant to your statutory authority to conduct experiments and demonstrations on changes in payments and services that may improve the quality and efficiency of services to beneficiaries. Health centers participating in this demonstration must have shown their ability to provide comprehensive, coordinated, integrated, and accessible health care.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any

party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

You are authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
Washington, December 9, 2009.

[FR Doc. E9–29783
Filed 12–11–09; 8:45 am]
Billing code 4110–60–P

Federal Register

Monday,
December 14, 2009

Part III

The President

Proclamation 8464—Human Rights Day, Bill of Rights Day, and Human Rights Week, 2009

Federal Register
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Monday, December 14, 2009

Presidential Documents

Title 3—

The President

Proclamation 8464 of December 9, 2009

Human Rights Day, Bill of Rights Day, And Human Rights Week, 2009

By the President of the United States of America

A Proclamation

More than 60 years ago, the United Nations General Assembly approved the Universal Declaration of Human Rights, declaring the ''inherent dignity'' and ''equal and inalienable rights'' of all human beings as the ''foundation of freedom, justice and peace in the world.'' This self-evident truth guides us today. Although every country and culture is unique, certain rights are universal: the freedom of people—including women and ethnic and religious minorities—to live as they choose, speak their minds, organize peacefully and have a say in how they are governed, with confidence in the rule of law. History shows that countries that protect these rights are ultimately more stable, secure, and successful.

In the United States, these fundamental rights are the core of our Declaration of Independence, our Constitution, and our Bill of Rights. They are the values that define us as a people, the ideals that challenge us to perfect our union, and the liberties that generations of Americans have fought to preserve at home and abroad. Indeed, fidelity to our fundamental values is one of America's greatest strengths and the reason we stand in solidarity with those who seek these rights, wherever they live.

Human Rights Day, Bill of Rights Day, and Human Rights Week must be our call to action. As Americans, we must keep striving to live up to our founding ideals. As a Nation, the United States will always side with the innocent whose rights are denied, the oppressed who yearn for equality, and all those around the world who strive for freedom. As members of what President Franklin Roosevelt called ''the human community,'' we will never waver in our pursuit of the rights, dignity, and security of every human being.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim December 10, 2009, as Human Rights Day; December 15, 2009, as Bill of Rights Day; and the week beginning December 10, 2009, as Human Rights Week. I call upon the people of the United States to mark these observances with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of December, in the year of our Lord two thousand nine, and of the Independence of the United States of America the two hundred and thirty-fourth.

[FR Doc. E9–29865
Filed 12–11–09; 11:15 am]
Billing code 3195–W0–P

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 955/P.L. 111–99

To designate the facility of the United States Postal Service located at 10355 Northeast Valley Road in Rollingbay, Washington, as the ''John 'Bud' Hawk Post Office''. (Nov. 30, 2009; 123 Stat. 3011)

H.R. 1516/P.L. 111–100

To designate the facility of the United States Postal Service located at 37926 Church Street in Dade City, Florida, as the ''Sergeant Marcus Mathes Post Office''. (Nov. 30, 2009; 123 Stat. 3012)

H.R. 1713/P.L. 111–101

To name the South Central Agricultural Research Laboratory of the Department of Agriculture in Lane, Oklahoma, and the facility of the United States Postal Service located at 310 North Perry Street in Bennington, Oklahoma, in honor of former Congressman Wesley ''Wes'' Watkins. (Nov. 30, 2009; 123 Stat. 3013)

H.R. 2004/P.L. 111–102

To designate the facility of the United States Postal Service located at 4282 Beach Street in Akron, Michigan, as the ''Akron Veterans Memorial Post Office''. (Nov. 30, 2009; 123 Stat. 3014)

H.R. 2215/P.L. 111–103

To designate the facility of the United States Postal Service located at 140 Merriman Road in Garden City, Michigan, as the ''John J. Shivnen Post Office Building''. (Nov. 30, 2009; 123 Stat. 3015)

H.R. 2760/P.L. 111–104

To designate the facility of the United States Postal Service located at 1615 North Wilcox Avenue in Los Angeles, California, as the ''Johnny Grant Hollywood Post Office Building''. (Nov. 30, 2009; 123 Stat. 3016)

H.R. 2972/P.L. 111–105

To designate the facility of the United States Postal Service located at 115 West Edward Street in Erath, Louisiana, as the ''Conrad DeRouen, Jr. Post Office''. (Nov. 30, 2009; 123 Stat. 3017)

H.R. 3119/P.L. 111–106

To designate the facility of the United States Postal Service located at 867 Stockton Street in San Francisco, California, as the ''Lim Poon Lee Post Office''. (Nov. 30, 2009; 123 Stat. 3018)

H.R. 3386/P.L. 111–107

To designate the facility of the United States Postal Service located at 1165 2nd Avenue in Des Moines, Iowa, as the ''Iraq and Afghanistan Veterans Memorial Post Office''. (Nov. 30, 2009; 123 Stat. 3019)

H.R. 3547/P.L. 111–108

To designate the facility of the United States Postal Service located at 936 South 250 East in Provo, Utah, as the ''Rex E. Lee Post Office Building''. (Nov. 30, 2009; 123 Stat. 3020)

S. 748/P.L. 111–109

To redesignate the facility of the United States Postal Service located at 2777 Logan Avenue in San Diego, California, as the ''Cesar E. Chavez Post Office''. (Nov. 30, 2009; 123 Stat. 3021)

S. 1211/P.L. 111–110

To designate the facility of the United States Postal Service located at 60 School Street, Orchard Park, New York, as the ''Jack F. Kemp Post Office Building''. (Nov. 30, 2009; 123 Stat. 3022)

S. 1314/P.L. 111–111

To designate the facility of the United States Postal Service located at 630 Northeast Killingsworth Avenue in Portland, Oregon, as the ''Dr. Martin Luther King, Jr. Post Office''. (Nov. 30, 2009; 123 Stat. 3023)

S. 1825/P.L. 111–112

To extend the authority for relocation expenses test programs for Federal employees, and for other purposes. (Nov. 30, 2009; 123 Stat. 3024)

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